

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

DIVISION OF INDUSTRY SERVICES

4822 MADISON YARDS WAY

MADISON WI 53705

Contact Through Relay

<http://dsps.wi.gov/programs/industry-services>

www.wisconsin.gov

Tony Evers, Governor

Dan Hereth, Secretary



ORDER 0008072

NOTICE OF VIOLATIONS AND ORDERS

August 5, 2022

Nokomis Volunteer Fire Department
2675 CTH L,
Tomahawk, WI 54487

**RESPONDENT: NOKOMIS VOLUNTEER FIRE
DEPARTMENT**

Regulated Objects:

Nature of Complaint Summary: Concern regarding firefighter safety and training. (22 COM 16)

Last Inspection Date: March 2022

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.

INVESTIGATION NOTES: The Department performed a Wis. Admin. Code Chapter SPS 330 inspection/audit for compliance with the rules concerning Fire Department Safety and Health. The SPS 330 audit identified several areas of non-compliance and needed improvement

VIOLATIONS

1. Condition Found: Respondent stated they had an established Occupational Safety and Health Committee and had a Standard Operating Guideline for it but did not list all the committee required duties, was not sure how often they met, and the committee did not have written records of its meetings available to all fire fighters in the fire department.

Code Section Violated: 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 fire chief 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 shall be selected by the fire fighter organization. The fire chief shall appoint the other members of the committee.

(2) The committee appointed under sub. (1) shall do all of the following:

- (a) Conduct research, develop recommendations, and review matters pertaining to the program.
- (b) Hold regularly scheduled meetings, which shall occur at least biannually, and may hold special meetings as deemed necessary. The committee shall make a written record of its meetings available to all fire department members.

Action Required: Establish a true Occupational Safety and Health Committee following the SPS 330.05 requirements. Ensure that the committee meets the additional requirements specified in this section.

2. Condition Found: Respondent had monthly training records but in several instances there was no indication of who the instructor was or evidence to suggest that the training was provided by someone who was qualified. There was lack of documentation or indication that the training was not made up or not completed by all fire department members who had missed the initial monthly training drill/evolution.

Code Section Violated: Wis. Admin. Code § SPS 330.07 Training and education.

Every fire department shall:

- (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.

Note: The intent of this rule is not to require an instructor to be certified. Fire departments should ensure that instructors are qualified in that particular area of expertise familiar with the fire department, its organization, and its operations.

- (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 fire fighting activity or within an IDLH environment as determined by the incident safety officer in accordance with s. SPS 330.14 (1) (g).

Note: The use of a structured on-the-job training program with close supervision can assist fire departments to utilize new members in non-IDLH environments during emergency operations.

- (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 fire fighting 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).

Action Required: Ensure that training meets the requirements of SPS 330.07. Ensure that training documentation identifies the qualified instructor, and that all members complete the required monthly training drills and that the training records, documentation is consistent with written guidelines.

3. Condition Found: Weekly inspections were being not being completed or documented on portable equipment. Respondent did not have documented inventory records of equipment.

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

(a) Visually inspect at least weekly and within 24 hours after any 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.

Action Required: Perform and document required weekly inspections for portable equipment. Maintain inventory records of portable equipment.

4. Condition Found: There was no documented evidence to suggest that weekly tests were being completed on PASS Alarms.

Code Section Violated: Wis. Admin. Code § SPS 330.13 Personal alert safety system
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.

Action Required: Perform and document required weekly tests for PASS alarms.

5. Condition Found: Respondent had not verified a workplace hazard assessment through written certification. Respondent did not have a written maintenance and inspection program for protective clothing and equipment. Respondent did not have documented personal protective equipment training for all fire department staff members.

Code Section Violated: Wis. Admin. Code § SPS 330.11 Minimum Standards

(1) Protective clothing and equipment. 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.

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.: Occupational Safety and Health Standards, Title 29 CFR Part 1910, July 1, 2010.

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 PPE. Each such 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.

Action Required: Complete a workplace hazard assessment. Complete a written maintenance and inspection program. Complete documentation of protective clothing and equipment training and requirements with all fire department staff members.

6. Condition Found: Respondent did not train all fire department members on their Exposure Control Plan

Code Section Violated: 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.: Occupational Safety and Health Standards, Title 29 CFR Part 1910, July 1, 2010.

29 CFR 1910.1030(c)(1)(i) Each employer having employees with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure. **1910.1030(c)(1)(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.

Action Required: Train all fire department members on your written Exposure Control Plan and complete annual review of the plan.

7. Condition Found: Blood Borne Pathogens training was not completed for all firefighters/first responders on the fire department

Code Section Violated: 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.: Occupational Safety and Health Standards, Title 29 CFR Part 1910, July 1, 2010.

29 CFR 1910.1030(g)(2)(iv) Annual 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.

Action Required: Complete and document Blood Borne Pathogen training for all required fire department staff members.

8. Condition Found: Not all fire department members were trained on their Respiratory protection program.

Code Section Violated: Wis. Admin. Code § SPS 330.12 Self-contained breathing apparatus.

- (1) Respiratory protection. Every fire department shall do all of the following:
- (c) Adopt and maintain a respiratory protection program that satisfies the requirements of s. 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.

Action Required: Ensure that all firefighters are trained in the proper use of respirators and all training is documented. Ensure that medical evaluations are completed on all firefighters prior to initial fit testing. Ensure that proper maintenance, inspections, and documentation are being completed on all SCBAs.

9. Condition Found: Not all fire department members were trained to the fire department's incident command system written guidelines and not all members had completed the proper NIMS Training (NIMS 100/700).

Code Section Violated: Wis. Admin. Code § SPS 330.14(1) Incident management. Every fire department shall do all of the following:

- (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.

Action Required: Ensure that all fire department staff members are trained on the written incident command system written guideline and that all members have completed the proper NIMS training requirements.

10. Condition Found: The fire department stated they had a program but did not have a written policy for Firefighter Assistance Referral Program.

Code Section Violated: Wis. Admin. Code § SPS 330.16 Member Assistance Referral Program

- (1) Every fire department shall establish and adopt a written policy statement for an employee assistance program that identifies and assists members with personal problems, alcohol or substance abuse, stress, or emotional, physical, and mental health issues that are adversely affecting their job performance. The assistance program shall include a resource list of available services and methods for referring a member to the appropriate mental or health care services for the recovery of the member's health and job performance.

Action Required: 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 and please ensure that all fire department members are trained, briefed on the Firefighter Assistance Referral Program.

11. Condition Found: Respondent did not have a written emergency operations procedure relating to hazardous materials. (Respondent calls for mutual aid assistance)

Code Section Violated: 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.

Corrective Action Required: Develop, implement a written document an emergency operations procedure relating to hazardous materials according to 29 CFR 1910.120. And ensure that all fire department members are trained on these procedures.

12. Condition Found: Respondent did not have a written policy stating whether they will assist with trench rescues. (Respondent calls for mutual aid assistance.)

Code Section Violated: Wis. Admin. Code § SPS 330.23 Miscellaneous hazardous situations.

Fire departments engaged in miscellaneous emergency operations and hazardous situations such as structural collapse rescue, elevator rescue, trench rescue, and terrorism responses shall comply with s. SPS 330.14, 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.

29 CFR 1926.652(a)

(1) Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with paragraph (b) or (c) of this section

Action Required: Ensure that if performing or assisting with trench rescue, staff will be properly protected. Respondent may also choose not to allow staff to perform trench rescue and to call for specialized assistance to handle such incidents. A “no entry” policy should be created to prevent staff from performing trench rescue without the proper training and equipment. Ensure that all fire department members are trained/briefed on this newly established written policy.

13. Condition Found: Respondent did not have a written policy stating whether or not they will assist with permit required confined space entry and rescues. (Respondent calls for mutual aid assistance.)

Code Section Violated: SPS 330.23 Miscellaneous hazardous situations. Fire departments engaged in miscellaneous emergency operations and hazardous situations such as structural collapse rescue, elevator rescue, trench rescue, and terrorism responses shall comply with s. SPS 330.14, 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.

29 CFR 1910.146(c)(3) If the employer decides that its employees will not enter permit

spaces, the employer shall take effective measures to prevent its employees from entering the permit spaces and shall comply with paragraphs (c)(1), (c)(2), (c)(6) and (c)(8) of this section.

29 CFR 1910.146(c)(4) If the employer decides that its employees will enter permit spaces, the employer shall develop and implement a written permit space program that complies with this section. The written program shall be available for inspection by employees and their authorized representatives.

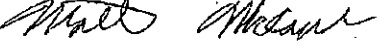
Action Required: If Respondent is going to perform permit required confined space entries, Respondent must establish a confined space written program and complete regular confined space training that relates to the types of confined spaces Respondent has in their area. Respondent may also choose not to allow staff to enter permit-required confined spaces and to call for specialized assistance to handle such incidents that require permit required confined space entry. A “no entry” policy should be created to prevent staff from performing permit required confined space entries and rescue without the proper training and equipment.

You are hereby ordered to have the above violations corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. These corrections shall be corrected by the compliance date noted, and upon correction of violations Gary Peck 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. 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. Wis. Stat. § 101.02 (12).

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

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: 3/2022
PHONE/WORK HOURS: (608) 266-9814	
E-MAIL: matthew.mccasland@wisconsin.gov	INVESTIGATION TYPE: Requested
SIGNATURE: DATE:	INVESTIGATION SOURCE: Other

 8/5/2022	COMPLIANCE DATE: 10/28/2022

cc: Gary Peck

Brad Johnson