

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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**Correcting information on the DSPS website:** An individual who believes that information on the website is inaccurate may contact [DSPS@wisconsin.gov](mailto: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](http://www.wisconsin.gov)



Tony Evers, Governor  
Dan Hereth, Secretary

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**NOTICE OF VIOLATIONS AND ORDERS**

January 17, 2023

**ORDER 0008358**

Rusk County Highway Dept.  
N4711 Highway 27  
Ladysmith, WI 54848

**SITE:**  
**Asphalt Plant**  
**N6335 State Hwy 27**  
**Ladysmith WI 54848**  
**Town of Flambeau**  
**Parcel ID: 012-00337-0000**

**Regulated Objects:**

Nature of Complaint Summary: Public Sector Safety Issues with Rusk County Highway Department  
Object Type: Complaint (22 COM 142)

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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.

**Upon receipt of this order, the employer shall post the order at or near the site of violation for 3 days, or until the violation is abated, whichever is longer. Wis. Stat. § 101.055(6)(a)1.**

**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. Violation:** Employees are exposed to ingoing nip points created by unguarded tail rollers, infeed rollers, and at transition points between conveyors that make up the hot mix plant conveying system.

**29 CFR 1910.212(a)(1) Types of guarding.** One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are-barrier guards, two-hand tripping devices, electronic safety devices, etc.

**Action Required:** Install appropriate guarding on all ingoing nip points and rotating parts of the conveying system.

**2. Violation:** Emergency stop buttons and emergency pull cords have been removed from the hot mix plant conveying system.

**29 CFR 1926.555(a)(8)** All conveyors in use shall meet the applicable requirements for design, construction, inspection, testing, maintenance, and operation, as prescribed in the ANSI B20.1-1957, Safety Code for Conveyors, Cableways, and Related Equipment.

**Action Required:** Install emergency stop buttons and emergency pull cords per the standard.


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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 Jane Dienger 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. § 101.055(6)(a)3. Review by department.** A public employer or employee affected by an order or decision issued by the department under subd. 1. or 2. or sub. (5) (a) may obtain review of the order or decision by filing with the department a petition requesting a hearing and specifying the modification or change desired in the order or decision. A petition for a hearing must be filed with the department not later than 30 days after the order is issued or the written notification is mailed. If the department denies the request for a hearing, the denial shall be in writing and shall state the reasons for denial. If the department holds a hearing, it shall issue an order affirming, vacating or modifying the order or decision under subd. 1. or 2. or sub. (5) (a), within 30 days after the close of the hearing.

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|--|-----------------------------------|
| ATTORNEY NAME: Matthew McCasland   | INVESTIGATION DATE: 10/2022       |
| PHONE/WORK HOURS: (608) 266-9814   |                                   |
| E-MAIL: matthew.mccasland@wisconsin.gov  | INVESTIGATION TYPE: Requested     |
| SIGNATURE:  DATE: 1/17/2023 | INVESTIGATION SOURCE: Other       |
|  | <b>COMPLIANCE DATE: 2/17/2023</b> |
|  |                                   |
|  |                                   |

cc: Jane Dienger

Lucas Dederich