



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Philip D. Murphy
Governor

Robert Asaro-Angelo
Commissioner

Sheila Y. Oliver
Lieutenant Governor

May 21, 2019

Jenny Gleghorn, Administrator
Borough of Tuckerton
420 East Main Street
Tuckerton, NJ 08087

Re: Tuckerton Fire Department Non-Formal Complaint
PEOSH File: C69-33-043

Dear Ms. Gleghorn:

The Office of Public Employees Occupational Safety and Health (PEOSH) received a non-formal (third party) complaint alleging violations of the *N.J.A.C 12:100 Subchapter 10 Standards for Firefighters* by the Tuckerton Fire Department (FD) while on a fire call on or about April 24th, 2019. Photographs of the fire scene were also provided by the third party. A meeting was held at the Tuckerton Borough Municipal Building with the following personnel to discuss the matter:

Dale W. Eggert, Chief	Tuckerton FD
Lee Eggert, Captain	Tuckerton FD
Shawn Spina, Firefighter	Tuckerton FD
Tony Foglia	Tuckerton FD
Jenny Gleghorn, Administrator	Borough of Tuckerton
Brian Olsen, Police Chief	Tuckerton Police Department
John Garton, Compliance Officer	PEOSH-Safety
Jim Revak, Assistant Chief	PEOSH-Safety
Terri Malinoski, Compliance Officer	PEOSH-Health
Craig Augustoni, Senior Planner-EMF	NJ Division of Fire Safety

FD personnel provided the details of their response to the fire call and identified the personnel in the photographs at the fire scene. Of concern to PEOSH were individuals who were not in personal protective equipment (PPE) while on scene. One individual in question was determined to be the driver of the apparatus who, in accordance with N.J.A.C. 12:100-10.15(a), was not required to be in PPE while responding to an alarm as a driver but did not don his PPE before assuming his duty as the pump operator.

New Jersey Is An Equal Opportunity Employer

The driver, who is a FD member in good standing, admittedly knew the requirement to have his PPE on and the FD Chief, in response, issued a reprimand to the member. PEOSH therefore informed the FD personnel that no citations would be issued based on the employer's right to an affirmative defense of employee misconduct in accordance with the PEOSH Field Operations Manual (FOM). FD personnel were also reminded of the employer's requirement to ensure that its employees wear the appropriate PPE when required in accordance with *N.J.A.C. 12:100 Subchapter 10* and the Department's PPE Hazard Assessment as required by *29 CFR 1910.132*.

Another individual on scene without PPE was identified as an active FD member who lived in close proximity to the fire scene and responded directly to the call without reporting to the firehouse to get his PPE as it would have significantly increased his response time. The FD Chief also admonished this member and informed PEOSH that he would be immediately issuing a Standard Operating Procedure / Chief's Order requiring all members to proceed to the Fire Department and obtain their appropriate PPE before responding to the scene of an emergency. Further, it is PEOSH's understanding that members will no longer be permitted to respond to emergency scenes in personal vehicles or on foot.

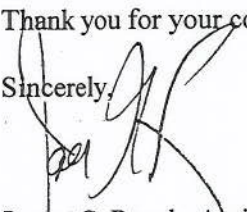
A third individual without PPE was identified by FD personnel as someone who was not authorized to be on the fire scene. PEOSH advised FD personnel of their authority to control a fire scene and restrict access to unauthorized personnel to ensure the safety of their members as well as the general public in accordance with the following statutes:

- N.J.S.A. 40A:14-54 *Firemen in the performance of their duties to have powers of police officers;*
- N.J.S.A. 40A:14-54.1 *Authority at scene of fire of fire official in charge of supervision of direction of operations; and*
- N.J.A.C. 5:75-2.1(a) – *New Jersey Division of Fire Safety: Incident Management System Regulations.*

Please be advised that as a result of this meeting, PEOSH considers this matter closed and this letter shall therefore serve as the closing of the PEOSH case file.

Thank you for your cooperation and continuing concern regarding the safety of your employees.

Sincerely,



James G. Revak, Assistant Chief
Office of Public Employees Occupational Safety & Health

c: Dale W. Eggert, Fire Chief
Brian Olsen, Police Chief
Craig Augustoni, DFS
Terri Malinoski, PEOSH

PEOSH Inspection File Documentation Checklist
(Submit with each file)

Last Form Revision Date: 03/30/16

File # **C 69-33-043**

Check As Applicable	Order	FORM	Comments
✓	1	PEOSH Information Sheet	Handwritten
✓	2	PEOSH Inspection Diary Sheet	Include a diary sheet with each submittal (i.e. OTC, No Hazard, and Follow-up/Close-out)
✓	3	Inspection Field Notes/ OSHA-1B Worksheet	Handwritten (Legible) & signed by CSHO All information fields must be filled in.
	4	Opening Conference Check List	Signed by Employer, Employee Reps, & CSHO (Document any variations w/representatives)
✓	5	OIS - Inspection Report	Print-out from OIS & signed
	6	OIS - Violation Work Sheet (includes penalty calculations)	Print-out from OIS (Must be complete and match final OTC citations)
	7	Violation Photographs	Must be labeled to corresponding violation(s) and include brief identification description
✓	8	OIS UPA - Referral	Entered by CSHO (if inspection is a referral) Print-out from OIS
✓	9	PEOSH Complaint Form	Supplied by office (if complaint inspection)
	10	OIS UPA - Complaint	Supplied by office (if complaint inspection) Print- out from OIS
	11	Receipt of Complaint Acknowledgement Letter	Supplied by Office (sent upon receipt of complaint by office)
	12	Complaint Results Cover Letter	Generated by CSHO from OIS Documents standard form letter
	13	OIS UPA Form - Fat/Cat	Entered in OIS by CSHO (if fatality/ catastrophe inspection) Print-out from OIS
	14	OIS - Investigation Summary	Entered in OIS by CSHO (if fatality /catastrophe inspection) Print-out from OIS
	15	Programs (LO/TO, PCSP, HazCom, etc.)	Must include copy of program or relevant section if deficiency is identified
	16	OIS OSHA-300A Data Sheet	Print-out from OIS (All Inspections)
	17	NJ OSH 300/300A Forms	For current year-to-date and preceding 3 years (All Inspections)
	18	Employee Interviews	All inspections as applicable.
	19	Police/Coroner Reports	(For Accidents/Fatalities)
✓	20	Mailing Lists	Established on OIS Inspection Report (See item 5)

INSPECTION INFORMATION

1. CSHO NO.: W9576
2. INSP. DATES: 5/7/19
3. FEDERAL FILE NO. 1398667
STATE FILE NO.: C 69-33-043
4. FACILITY CODE: 3AF
5. NAICS NUMBER: 922160
6. NAME OF AGENCY: Borough of Tuckerton
7. FACILITY: Fire Department
8. SITE ADDRESS: 111 N. Green St.
9. CITY: Tuckerton
10. COUNTY: Ocean
11. STATE: NJ 12. ZIP: 08087 13. PHONE: 609-256-4546

MAIL REPORTS TO

14. NAME: Jenny Gleghorn 15. TITLE: Administrator
16. DEPARTMENT/BUILDING: Borough of Tuckerton
17. ADDRESS: 420 E. Main St.
18. CITY: Tuckerton 19. COUNTY: Ocean
20. STATE: NJ 21. ZIP: 08087

EMPLOYER REPRESENTATIVE

22. EMPLOYER REPRESENTATIVE:
A. Dale Eggeert 23. TITLE: Fire chief 24. PHONE: _____
B. Jenny Gleghorn 23. TITLE: Administrator
C. Brian Olsen 23. TITLE: Police Chief
25. OPENING CONFERENCE: ABC 26. WALK AROUND: ABC 27. CLOSING CONFERENCE: ABC

EMPLOYEE REPRESENTATIVE

28. EMPLOYEE REPRESENTATIVE
A. _____ 29. OCCUPATION: Firefighter 30. UNION: NIA
B. _____
C. _____
31. OPENING CONFERENCE: A 32. WALK AROUND: A 33. CLOSING CONFERENCE: A

34. CAMPAIGNS/SPECIAL EMPHASIS PROGRAMS: _____

35. TEMPORARY WORKERS (Yes or No): NO

36. TOTAL NUMBER OF EMPLOYEES: 16

37. NUMBER OF EMPLOYEES AT FACILITY: 65 38. PRIMARY ACTIVITIES: Fire Suppression

39. ITEMS: NIA

40. INSTANCES: NIA

41. ABATEMENT DATE: NIA

PRINT NAME: John Garton

**New Jersey Department of Labor & Workforce Development
Office of Public Employees' Occupational Safety & Health**

Facility Name: Tuckerton Fire Department

Code & File #: 3AF C 69-33-043

[illegible]

Signature:

John Guter

Opening Conference Agenda
File Number C 69-33-043

1. Purpose of Inspection
 - a. Allegation relates to the use of PPE at a structure fire by firefighters on or about April 24th, 2019 in Tuckerton.
 - b. Control of fire scenes
2. Copies of Employer & Employee Rights
 - a. PEOSH poster
 - b. PEOSH Act
 - c. New Jersey Administrative Code
3. Scope of Inspection
 - a. Comprehensive vs. Partial
 - b. Private interviews of employees
 - c. Physical inspection (walkaround)
4. Discrimination / Retaliation
 - a. Not permitted – see N.J.A.C. 12:110-7
5. Camera Usage
 - a. Used to document conditions in workplace
6. Immediate Abatement
 - a. Encouraged
 - b. Noted as “Corrected during inspection”
7. Document Request
 - a. 2018 OSHA 300 Log for Tuckerton Fire Department
 - b. 2018 OSHA 300A Log for Tuckerton Fire Department
 - c. Current member roster for Tuckerton Fire Department
 - d. NFIRS report for the subject incident

NJ PEOSH Regulation:

12:100-10.5 Protective clothing

- (a) The employer shall provide, at no cost to the employee, and assure the use of, protective clothing which complies with this subchapter.
- (b) Firefighters performing interior structural firefighting and overhaul shall be provided with, and required to wear, the equipment covered in this subchapter.
- (c) The employer shall assure that:
 - 1. Protective clothing protects the head, body and extremities, and consists of at least the following components: body protection, eye, face and head protection;
 - 2. Protective clothing ordered or purchased after the effective date of this subchapter shall comply with this subchapter; and
 - 3. Firefighters wear foot, leg and body protective clothing complying with this subchapter.

TITLE 40A - MUNICIPALITIES AND COUNTIES

40a:14

40A:14-54. Firemen in the performance of their duties to have powers of police officers

The members and officers of the paid or part-paid fire department and force of a municipality shall have the powers and authority of police officers within the municipality, to be exercised while going to, attending and returning from a fire.

40A:14-54.1. Authority at scene of fire of fire official in charge of supervision or direction of operations

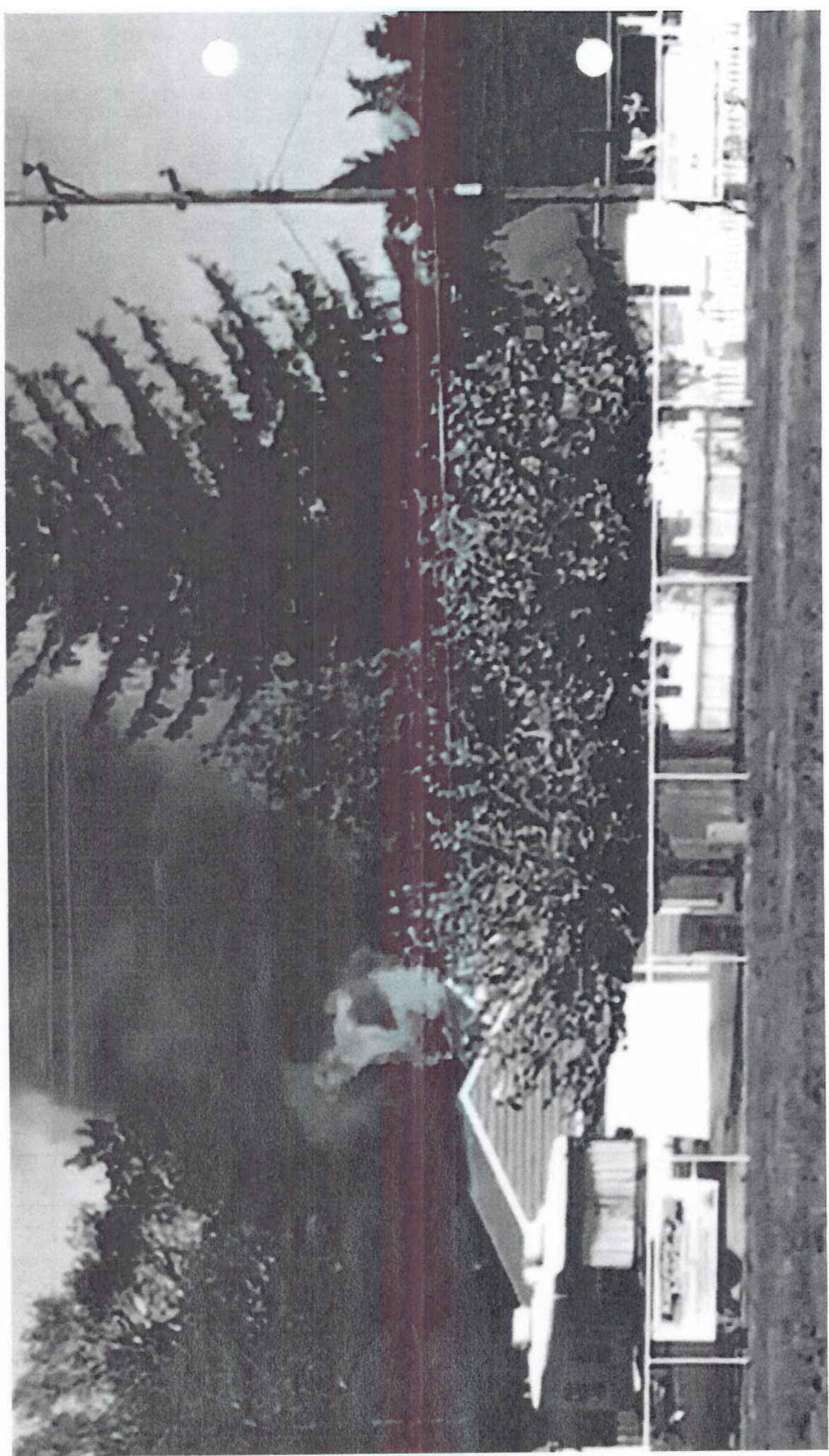
The chief or other superior officer of any municipal paid or part-paid fire department or volunteer fire company, or a State fire warden, who is charged with the duty of supervising or directing operations at the scene of any fire shall be the sole authority within fire lines established by said fire chief or other superior fire officer, or State fire warden, at the scene of such fire with respect to all firefighting operations relating to the protection of lives and property endangered by such fire, and within said fire lines such authority shall supersede that of any municipal police authority. The authority hereby invested in the chief or other superior officer, or State fire warden, shall terminate at such time as he shall declare the fire out. Nothing in this act shall affect the powers possessed by the Governor under the various emergency acts nor the powers possessed by any State agency to protect the public health, welfare and safety.

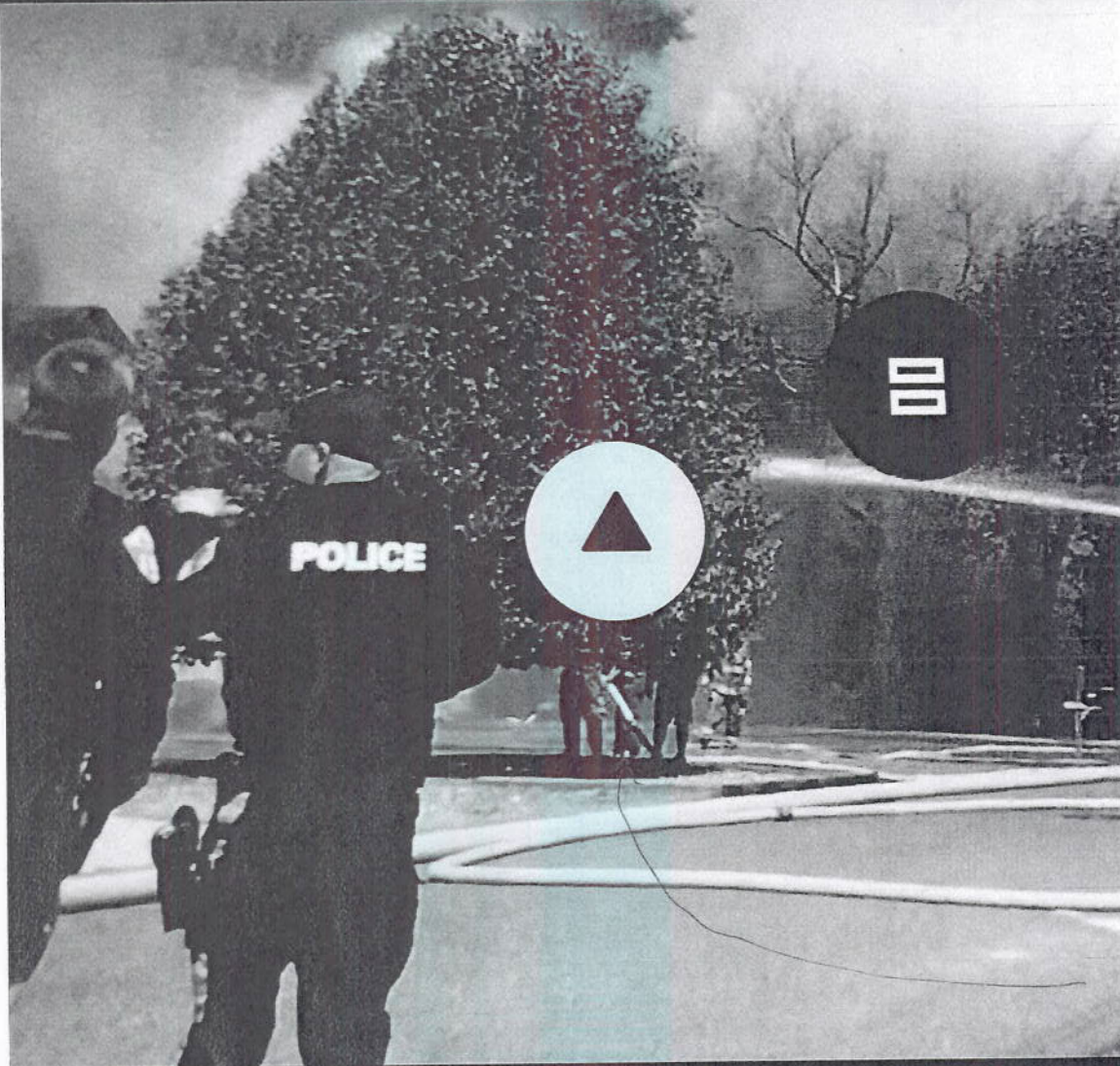
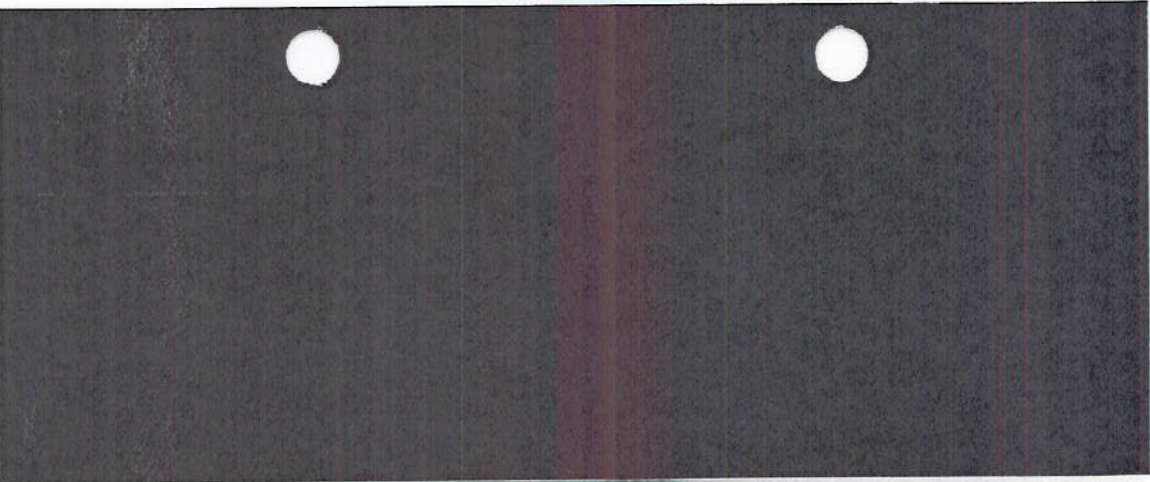
NFPA 1561-1995 Edition, with New Jersey amendments and adopted by N.J.A.C. 5:75-2.1(a), states at Clause 3-1.5:

“The incident commander shall provide for appropriate control of access to the incident scene”.

The annex to this clause, A-3-1.5, states that:

The incident management system should include standard operating guidelines to protect personnel from hazards and to keep unauthorized persons out of hazardous area. All supervisors should be aware of hazards and should take the necessary steps to control access to areas under their supervision. The incident commander should provide for control of access to the entire incident scene and, where appropriate, should exclude, establish limitations for, or provide an escort for non-fire department personnel.





Didn't know how
to pull pin. Hare
Pulled pin.

← deck gun

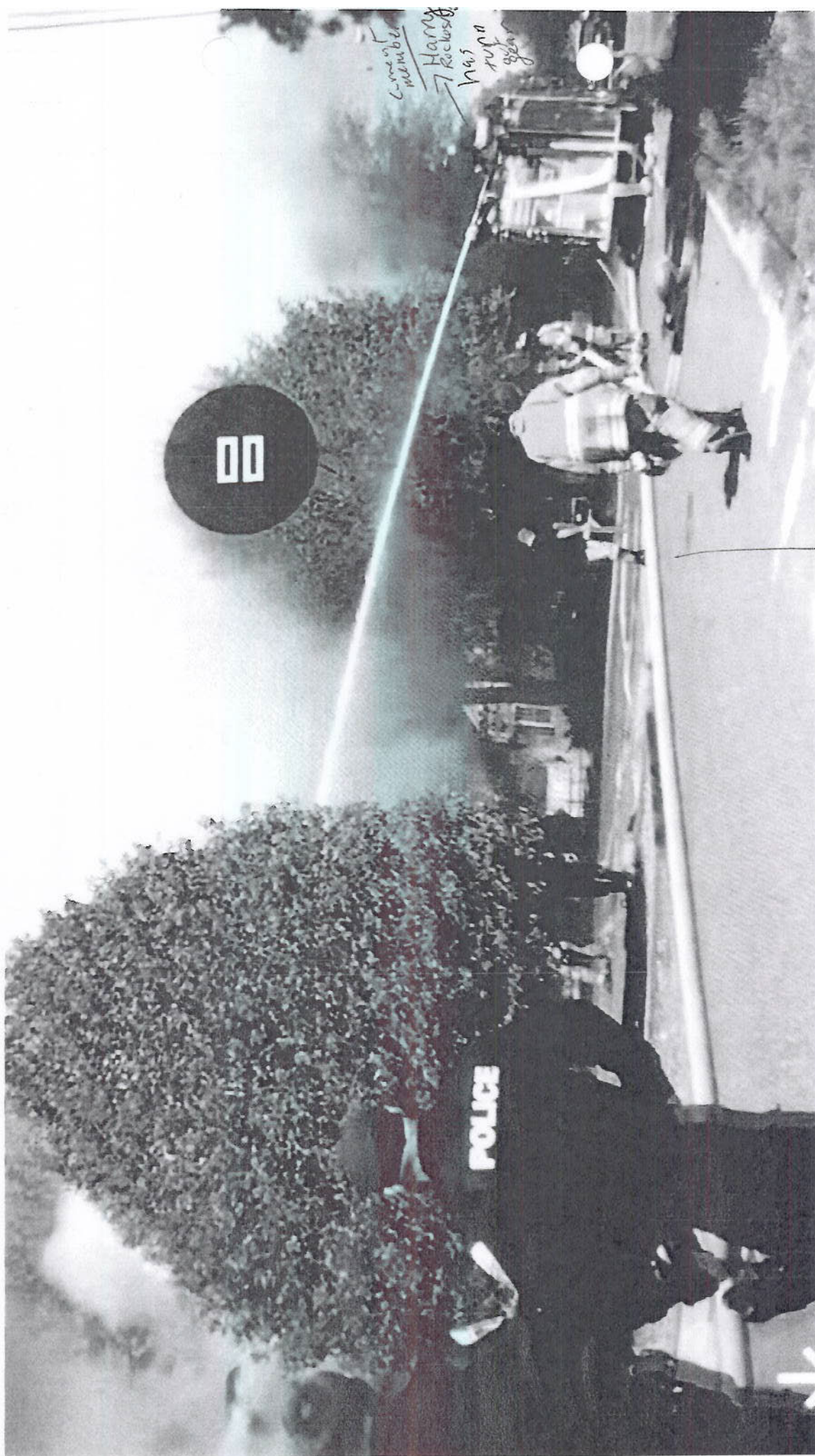
→ Lee morey
- didn't get fire
hamburgers
5" Feb 2019 trying
get disability
not coming calls
while disguised
toward down
going up

Rick Thomas
Resisted fire chief
acting as citizen -

discrimination
can't tell him
to leave.

Artic Fire
April 2019
Tuckerton member
morey told
him to leave.

Lee
morey



Line of
member
Harry
Rick
has
up
year

Ly Moroy - Life Member

Notes from
5/6/19 meeting

Need definition of Life Member

Not issued turnout gear / no current fit test.

SOP members respond to fire house, get gear, respond.

tuckerton 5 7 19 note to file

Note to file C 69-33-043

Per phone conversation with Chief D. Eggert, 5/7/19, there are 16-18 members of the fire department (excluding fire police and EMS).

Number used for other employees of municipality was taken from May 2018 inspection.

Inspection Report

Tue May 07, 2019 10:28:08 AM

RID	CSHO ID	Supervisor ID	Inspection Number	Optional Report Number	Case Closed Date
0253420	W9516	J9724	1398667	C 69-33-043	07-MAY-2019

Establishment Name		Tuckerton Fire Department		Doing Business As (DBA)		Borough of Tuckerton	
Establishment Owner Name	Local Government		Type of Business		Primary NAICS		922160
Site Address	111 Green St TUCKERTON, NJ, 08087		Site Phone	(609)-296-4546	Extn		Site FAX
Business Address	420 East Main Street TUCKERTON, NJ, 08087		Business Phone	(609)-296-2701			Business FAX
Mailing Address	420 East Main Street TUCKERTON, NJ, 08087		E-mail				Mobile Phone
Site Activity	Fire Department		NAICS Inspected	922160		Days on Site	1
Federal EIN			DUNs		Temporary or Fixed Site?		Fixed Site
State Estab Id			DUNS plus4		CAGE Code		
Construction Type							

Entry	25-APR-2019		First Closing Conference	06-MAY-2019	
Opening Conference	06-MAY-2019		Second Closing Conference		
Walkaround	06-MAY-2019		Exit	06-MAY-2019	

Inspection Initiating Type	Referral			Secondary Type	
Other Initiating Type				Inspection Category	Safety
Scope of Inspection	Partial			Reason No Inspection	
Sampling Performed?	N	SVEP	N	Expln. for No Insp.	
Federal Strategic Initiatives					
National Emphasis					
State Emphasis					
Local Emphasis					
Primary Emphasis					

Employed in Establishment	16	Walkaround?	Y	Advance Notice?	N
Covered By Inspection	16	Interviewed?	Y	Flag for Follow-up	N
Controlled By Employer	65	Union?	N	Reason for Follow-up	
Is this Company a current federal contractor?					

Parent Company Legal Name		Parent Comp Trade Name/DBA	
Parent Company Address		Phone Number	Extn
TIN / EIN	DUNS		
CAGE Code	DUNS plus4		

Related Activity			
Activity Number	Activity Type	Satisfied	Establishment Name
1452526	Referral	Safety	Tuckerton Fire Department

Related Inspections		
Inspection Number	Establishment Name	Related Inspection Type

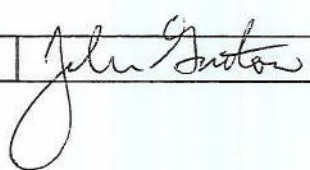
Additional Codes			
Type	ID	Value	Description

Employer Representatives Contacted															
Name		Dale Eggert		Job Title		Fire Chief		Occupation							
Address								Interviewed?		Y					
Home				Work		609-661-9448		Mobile				Fax			
Email								Participation		Walk Around, Credentials, Closing Conference, Opening Conference					
Name		Lee Eggert		Job Title		Fire Captain		Occupation							
Address								Interviewed?		Y					
Home				Work		609-709-5054		Mobile				Fax			
Email								Participation		Walk Around, Credentials, Closing Conference, Opening Conference					
Name		Brian Olsen		Job Title		Police Chief		Occupation							
Address								Interviewed?		Y					
Home				Work		609-342-7409		Mobile				Fax			
Email								Participation		Walk Around, Credentials, Closing Conference, Opening Conference					
Name		Jenny Gleghorn		Job Title		Administrator		Occupation							
Address								Interviewed?		Y					
Home				Work		609-296-2701		Mobile				Fax			
Email								Participation		Walk Around, Credentials, Closing Conference, Opening Conference					

Authorized Employee Representatives				
Name		Organization		Occupation
				Firefighter

Address				Interviewed?		Y	
Home		Work	609-891-5515	Mobile		Fax	
Email				Participation		Walk Around, Credentials, Closing Conference, Opening Conference	
Name				Organization		Occupation	
						Firefighter	
Address				Interviewed?		N	
Home		Work	609-709-3303	Mobile		Fax	
Email				Participation		Walk Around, Credentials, Closing Conference	

Other Persons Contacted							
Name		Craig Augustoni		Role		NJ DFS representative	
						Relationship to Employer	
Address				Interviewed?		N	
Home		Work	609-475-5322	Mobile		Fax	
Email				Participation		Walk Around	

CSHO Signature		Date	5/7/19
-----------------------	---	-------------	--------

Occupational Safety and Health Administration

Referral Report

Reporting ID	UPA Number	Receipt Date	Receipt Time	Receipt Type
0253420	1452526	25-APR-2019	02:00 PM	Fax
Electronic Complaint Number				

Establishment Name	Tuckerton Fire Department	Doing Business As (DBA)	Borough of Tuckerton	
Related Inspections	1398667			
Industry & Ownership	Primary NAICS	922160 - Fire Protection	Ownership	Local Government
Type Of Business	Fire Department			

Site Information

Street Address 1:	111 N. Green St				
Street Address 2:					
County:	OCEAN				
City	TUCKERTON	State	NEW JERSEY	Zip	08087
Management Official:	Dale Eggert	E-Mail:			
Phone Number:	(609)-709-5054	Fax Number:			

Business Address

Street Address 1:	420 East Main Street				
Street Address 2:					
County:	OCEAN				
City	TUCKERTON	State	NEW JERSEY	Zip	08087
Country	UNITED STATES OF AMERICA				

Mailing Address

Street Address 1:	420 East Main Street				
Street Address 2:					
County:	OCEAN				
City	TUCKERTON	State	NEW JERSEY	Zip	08087
Country	UNITED STATES OF AMERICA				

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

Fire department members allegedly utilized a handline from the first due engine at a 2nd alarm residential structure fire with no PPE. These members live in the area and responded directly to the scene to assist due to limited manpower on the first due engine. Command allowed the defensive suppression efforts to continue, even with 2nd alarm companies enroute, jeopardizing the safety of his members and violating the following standards in Subchapter 10.

Source 1			
<i>Referred by:</i>		<i>Other (specify)</i>	
<i>Source Name</i>		<i>Telephone</i>	
<i>Source Address</i>		TUCKERTON NEW JERSEY 08087 UNITED STATES OF AMERICA	
<i>Source E-mail Address</i>			
<i>Send Referral Results?</i>	No	<i>If no results sent, why?</i>	not an employee

Referral Actions					
Action Date	Action Type	Date Response Due	Communication Method	Type of Letter/Reason	Other – Status
05/06/2019	Do Inspection = Y			AD Discretion	
05/06/2019	Valid = Y				

Referral Responses				
Date Response Received	Type Response Received	Evaluation	Evaluated By	Other

RRI Investigation Information

# Hospitalizations	# of Amputations	# of Eye Injuries	Event Date	Event Time
Has this happened before?		Is the hazard still present?		Date employer's response sufficient to close investigation

What was employee doing just before incident occurred?	
What happened?	
What was the injury or illness?	
What was the object or substance that directly harmed the employee?	

RRI Corrective Actions	
Corrective Action Keywords	
Additional Relevant Information	
Inadequate Employer Response Description	

Strategic Initiatives	
National Emphasis	
Local/State Emphasis	

Additional Codes			
Type	ID	Value	Description

State of New Jersey
PUBLIC EMPLOYEES
OCCUPATIONAL SAFETY AND HEALTH
COMPLAINT

STATE USE ONLY	
Complaint No.	Date Rec'd
Date Closed	Investigator Code
Completed By [] Complainant [] Department	

1. Name of Employer Tuckerton Borough Volunteer Fire Department		2. Telephone Number (609) 296-2701	
3. Street Address (Mailing) 111 N. Green St			
4. City, State, Zip Code Tuckerton, NJ 08087		5. County Ocean	
6. Type (Check one) ☐ State Agency ☐ County ☒ Municipality ☐ School Board ☐ Utility Authority ☐ Other (Specify):			
7. Hazard Location/Name of Building (Specify building and exact location where alleged violation exists. Use separate form for each building.) Absecon Terrace, Residential Structure Fire			8. Floor and Room Number Exterior
9. Street Address (Site) Absecon Terrace			
10. City, State, Zip Code Tuckerton		11. County Ocean	
12. Name of Person(s) in Charge Lee Eggert Sr / Command		13. Telephone Number (609) 296-2701	
14. Briefly describe your complaint: Fire Department members (2 firefighters, 1 fire police) utilized a handline from the first due engine at a 2nd alarm residential structure fire with no PPE. These members live in the area and responded directly to the scene to assist due to limited manpower on the first due engine. Command allowed the defensive suppression efforts to continue, even with 2nd alarm companies enroute, jeopardizing the safety of his members and violating the following Standards in Subchapter 10. 12:100-10.5 (a) "assure the use of" 12:100-10.5 (c) 12:100-10.6 12:100-10.7 12:100-10.8 12:100-10.9 12-100-10.10 (b)3 12-100-10.10 (b)4			
15. Approximate Number of Employees in Area 10	a. Are there employees who believe they have health problems related to the complaint? ☐ Yes ☒ No	b. Number of employees experiencing symptoms?	
16. Type of work done in the area (i.e., clerical, maintenance, firefighter) Fire suppression			
17. Materials handled (chemicals, cleaning compounds, etc.)			
18a. To your knowledge, has there been a previous inspection related to the complaint? ☒ Yes ☐ No		b. If Yes, by whom? NJ PEOSH	
c. Date Inspected 2018		d. Outcome of Inspection Several violations - all abated	

State of New Jersey

STATE USE ONLY

Complaint No.

PUBLIC EMPLOYEES
OCCUPATIONAL SAFETY AND HEALTHCOMPLAINT
(Continued)

19. To your knowledge, has this complaint been the subject of any union/management grievance or have you (or anyone you know) otherwise called it to the attention of, or discussed it with, the employer or any representative thereof?

☐ Yes ☒ No

If Yes, give the results thereof, including any efforts by management to correct the violation.

20. Name of Union None	21. Local Number
22. Name of Employee Representative None	23. Telephone Number ()
24. Title	

THE INFORMATION BELOW WILL REMAIN CONFIDENTIAL UPON REQUEST

25. Please indicate your desire:

☒ DO NOT REVEAL MY NAME TO THE EMPLOYER.

OR

☐ MY NAME MAY BE REVEALED TO THE EMPLOYER.☐ I WANT TO BE PRESENT WHEN THE INSPECTION IS CONDUCTED.

26. The complainant, whose signature appears below (check one):

- ☒ Employee
☐ Representative of Employees
☐ Employer
☐ Other (Specify):

27. Name of Complainant (Print or Type) [REDACTED]	28. Signature (Required) [REDACTED]	29. Date 04/25/2019
30. Street Address [REDACTED]		
31. City, State, Zip Tuckerton, NJ 08087	32. County Ocean	
33. Telephone Number [REDACTED]	34. Best Time to Contact Day	

IF YOU ARE AN AUTHORIZED REPRESENTATIVE OF EMPLOYEES
AFFECTED BY THIS COMPLAINT, COMPLETE THE FOLLOWING:

35. Name of Organization

36. Your Organization Title