



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Chris Christie
Governor

PO BOX 386
TRENTON, NEW JERSEY 08625-0386

Harold J. Wirths
Commissioner

Kim Guadagno
Lieutenant Governor

December 9, 2010

Mary Sapp, Borough Admin.
Neptune City
106 West Sylvania Ave.
Neptune, NJ 07753

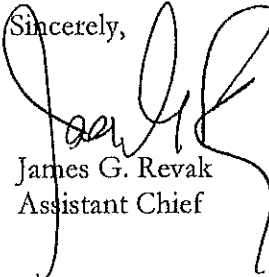
Re: **Code & File: G67-35-013**
Neptune City DPW

Dear Ms. Sapp:

This is to confirm that a inspection was conducted regarding the hazards and/or violations on the above referenced Order to Comply.

Please be advised that as a result of this inspection conducted on **December 9, 2010** the hazards and/or violations identified on that date were abated.

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

Sincerely,

James G. Revak
Assistant Chief

bs

New Jersey Is An Equal Opportunity Employer



OFFICE OF PUBLIC EMPLOYEES' OCCUPATIONAL SAFETY & HEALTH
(609) 984-1389 • FAX (609) 292-3749

AD-181(R-7-06)

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New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health
1 John Fitch Way - 3rd Floor
P.O. Box 386
Trenton, NJ 08625
Phone: (609) 984-1389



NOTICE OF ORDER TO COMPLY

To:
Mary Sapp, Borough Administrator
Neptune City
106 West Sylvania Avenue
Neptune, NJ 07753

Inspection Number: 314370800
PEOSH Number: G67-35-013
Inspection Date(s): 10/21/2010 - 10/21/2010
Issuance Date: 11/10/2010
Compliance Officer: Bill Smayda
Reason: General Inspection

Inspection Site:
Neptune City Public Works
41 TFH Way
Neptune, NJ 07753

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

The enclosed Order to Comply describes violations of the Public Employees' Occupational Safety and Health Act. The violations referred to in this Order must be abated by the dates listed unless within 15 working days (excluding weekends and State holidays) from the issuance of this Order to Comply you mail a notice of intent to contest to the Department of Labor at the address shown above. Please refer to the enclosed Public Employees' Occupational Safety and Health Act which outlines rights and responsibilities and which should be read in conjunction with this form. The Order will become the Final Order if no notice of intent to contest is filed as provided for in the Act or, if contested, the Order is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Notice and the Order to Comply be posted immediately in a prominent place at or near the location of each violation cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Order must remain posted until each violation cited herein has been abated, or for 15 working days (excluding weekends and State holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Office of Public Employees Occupational Safety and Health during the 15 working day contest period by contacting the office shown above. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s).

If you are considering a request for an informal conference to discuss any issues related to the Order to Comply, a written

letter of intent to contest must be submitted to the Office Of Public Employees Occupational Safety and Health within 15 working days of issuance of the Order. The contest period is not interrupted by a request for a informal conference.

If you decide to request an informal conference, the Office of Public Employees Occupational Safety and Health will schedule the conference, which will be conducted within 30 days of receipt of the request. Employees and/or employee representatives will be noticed of their right to attend the conference. The Office of Public Employees Occupational Safety and Health will arrange for representatives of the Department of Health and Senior Services to conduct conferences requested from Orders to Comply issued pursuant to a certification from the Commissioner of Health and Senior Services that an employer violation has been determined to exist within the Department of Health and Senior Service's jurisdiction under the Act.

Any and all supporting documentation of existing conditions as well as any abatement steps taken thus far must be brought to the conference. If conditions warrant, an informal settlement agreement, which amicably resolves this matter without litigation or contest may be entered into.

Right to Contest - You have the right to contest this Order to Comply. You may contest all citation items or only individual items. You may also contest abatement dates without contesting the underlying violations. **Unless you inform the Office of Public Employees Occupational Safety and Health in writing that you intend to contest the citation(s) and/or abatement dates within 15 working days of the issuance of this Order to Comply, then this Order to Comply shall become a final order.**

Penalties - The Act provides that if the time for compliance with an order of the Commissioner elapses, and the employer has not made a good faith effort to comply, the Commissioner shall impose a civil administrative penalty of up to \$7,000 per day for each violation of a provision of N.J.S.A. 34:6A-25 et seq., or of a standard or regulation promulgated under that act, or of an order to comply. Any employer who willfully or repeatedly violates the requirements of this section or any standard, rule, order or regulation promulgated under that act shall be assessed a civil administrative penalty of up to \$70,000 for each violation. Penalties imposed under this section may be recovered with costs in a civil action commenced by the Commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) in the Superior Court or a municipal court, either of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the Commissioner shall constitute an additional separate and distinct offense. If this penalty remains unpaid for more than 30 days, this order shall be recorded on the judgment docket of the Superior Court.

Penalties will be based upon factors such as gravity of the violation, the probability that an injury or illness would result from the hazard, the good faith efforts of the employer to comply, the presence of meaningful safety and health programs and the history of previous violations.

Request to Delay Issuance of Penalty Order to Comply - When an employer submits a request to delay the issuance of an Order to Comply establishing penalties, the employer shall submit such written request **10 calendar days** prior to the abatement date(s) established in the original Order to Comply.

Notification of Corrective Action- For each violation which you do not contest, you are required by 29CFR 1903.19 to submit an Abatement Certification to the office issuing the citation identified above. The certification **must** be sent by you within **10 calendar days** of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate.

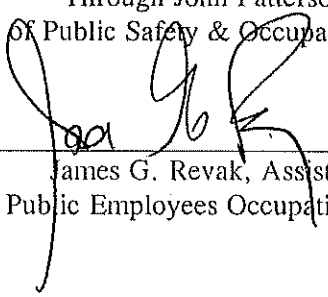
If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint, no later than 180 days after the employee first had knowledge that such discrimination occurred, with the Office of Public Employees Occupational Safety and Health at the address shown above.

Employer Right and Responsibilities - The enclosed copy of the Public Employees' Occupational Safety and Health Act outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees - The law gives an employee or an employee representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Office of Public Employees Occupational Safety and Health at the address shown above and postmarked within 15 working days (excluding weekends and State holidays) of the issuance of this Order to Comply.

Howard Black, Acting Assistant Commissioner
Through John Patterson, Chief
Division of Public Safety & Occupational Safety & Health

BY: 
James G. Revak, Assistant Chief
Office of Public Employees Occupational Safety and Health

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



NOTICE TO EMPLOYEES

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions(Notice) issued on 11/10/2010. The conference will be held at the OPEOSH office located at 1 John Fitch Way - 3rd Floor, P.O. Box 386, Trenton, NJ 08625 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

**NJ Department of Labor and Workforce
Development**

Office of Public Employees' Occupational
Safety & Health

Inspection Number: 314370800

Inspection Dates: 10/21/2010 -
10/21/2010

Issuance Date: 11/10/2010



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Public Works

Inspection Site: 41 TFH Way, Neptune, NJ 07753

Citation 1 Item 1 Type of Violation: Serious

29 CFR 1910.101(b): Compressed Gas Association Pamphlet P-1 (1965), adopted by reference as specified in 1910.6: Section 3.3.2: Cylinder storage areas were not prominently posted with the names of the gases to be stored.

LOC.: Exterior Shed, Six Propane Tanks

The tank storage area was not identified for the gases being stored.

Abatement Documentation Required

Date By Which Violation Must be Abated: 12/13/2010

Per Diem Penalty Per Violation If Not Abated By 12/14/2010: \$2380.00

Citation 1 Item 2 Type of Violation: Serious

29 CFR 1910.146(c)(4): When the employer decided that its employees would enter permit spaces, the employer did not develop and implement a written permit space entry program that complied with 29 CFR 1910.146:

LOC.: Records

A written permit required confined space program was not available during the inspection.

Abatement Documentation Required

Date By Which Violation Must be Abated: 12/13/2010

Per Diem Penalty Per Violation If Not Abated By 12/14/2010: \$2380.00

See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities

**NJ Department of Labor and Workforce
Development**
Office of Public Employees' Occupational
Safety & Health

Inspection Number: 314370800

Inspection Dates: 10/21/2010 -
10/21/2010

Issuance Date: 11/10/2010



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Public Works
Inspection Site: 41 TFH Way, Neptune, NJ 07753

Citation 1 Item 3 Type of Violation: Serious

29 CFR 1910.176(b): Material stored in tiers was not stacked, blocked, interlocked or limited in height so that it was stable and secure against sliding and collapse:

LOC.: Overhead Storage Platform, Shelving Unit

The shelving unit was not anchored to the wall.

Abatement Documentation Required

Date By Which Violation Must be Abated: **12/13/2010**

Per Diem Penalty Per Violation If Not Abated By 12/14/2010: **\$2380.00**

Citation 1 Item 4 Type of Violation: Serious

29 CFR 1910.253(e)(3)(ii)(C)(2): Backflow protection was not provided by an approved device that would prevent oxygen from flowing into the fuelgas system or fuel from flowing into the oxygen system:

LOC.: Garage, Oxy-Acetylene Welding Rig

Flashback protection was not evident on the rig.

Abatement Documentation Required

Date By Which Violation Must be Abated: **12/13/2010**

Per Diem Penalty Per Violation If Not Abated By 12/14/2010: **\$2380.00**

See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities

**NJ Department of Labor and Workforce
Development**

Office of Public Employees' Occupational
Safety & Health

Inspection Number: 314370800

Inspection Dates: 10/21/2010 -
10/21/2010

Issuance Date: 11/10/2010



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Public Works
Inspection Site: 41 TFH Way, Neptune, NJ 07753

Citation 1 Item 5 Type of Violation: **Serious**

29 CFR 1910.303(b)(1): Electrical equipment was not free from recognized hazards that were likely to cause death or serious physical harm to employees:

LOC.: Rest Room, Duplex Ground Fault Circuit Outlet

The outlet tripped the circuit breaker when it was circuit tested.

Abatement Documentation Required

Date By Which Violation Must be Abated: **12/13/2010**

Per Diem Penalty Per Violation If Not Abated By 12/14/2010: **\$2380.00**

**NJ Department of Labor and Workforce
Development**

Office of Public Employees' Occupational
Safety & Health

Inspection Number: 314370800

Inspection Dates: 10/21/2010 -
10/21/2010



Issuance Date: 11/10/2010

Notice of Unsafe or Unhealthful Working Conditions

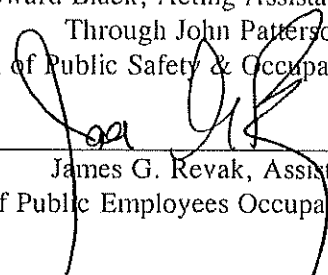
Company Name: Neptune City Public Works
Inspection Site: 41 TFH Way, Neptune, NJ 07753

Signed on November 10, 2010 pursuant to the authority
Vested by law in the New Jersey Department of Labor and Workforce Development

Howard Black, Acting Assistant Commissioner

Through John Patterson, Chief

Division of Public Safety & Occupational Safety & Health

BY: 

James G. Revak, Assistant Chief

Office of Public Employees Occupational Safety & Health

DISCRIMINATORY ACTS AGAINST EMPLOYEES ARE UNLAWFUL-N.J.S.A. 34:6A-45 - No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted any proceeding under or related to this section. Any employee who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of this section, may within 180 days after the employee first has knowledge such violation did occur, file a complaint with the Commissioner of Labor and workforce Development alleging that discrimination.

See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities