



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 386
TRENTON, NEW JERSEY 08625-0386

RICHARD J. CODEY
Acting Governor

THOMAS D. CARVER
Commissioner

March 28, 2005

Joel Popkin,
Administrator
Neptune City Hall
106 W Sylvania Ave
Neptune NJ 07753-6428

Re Inspection Number: G67-35-010
Inspection Date: February 18, 2005
Inspection Site: Neptune City DPW
41 TFH Way
Neptune, NJ 07753

Dear Mr. Popkin;

This is to confirm the receipt of your correspondence regarding the hazard(s) and /or violation(s) on the above referenced Order to Comply.

Please be advised that as a result of your correspondence, the remaining hazard(s) and/or violations identified on the Order to Comply are deemed to be abated.

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

Sincerely,

Richard H. Craig
Richard H. Craig, Assistant Chief
Office of Public Employees' Safety
Phone: 609-984-1389
Fax: 609-292-3749

RHC/sab/wbs

New Jersey Is An Equal Opportunity Employer



PUBLIC EMPLOYEES SAFETY
(609) 292-7036 • FAX (609) 292-3749
REPORT FATALITIES AND INPATIENT HOSPITALIZATIONS VIA HOTLINE: 1-800-624-1644

Printed on Recycled and Recyclable Paper

AD-18.30A (R-2-05)

Received 3/9/05

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health
1 John Fitch Way - 3rd Flr
P.O. Box 386
Trenton, NJ 08625-0386
Phone: (609) 984-1389



NOTICE OF ORDER TO COMPLY

To:	Inspection Number:	308361302
Joel Popkin, Administrator	PEOSH Number:	G67-35-010
Neptune City	Inspection Date(s):	02/18/2005 - 02/18/2005
Municipal Building	Issuance Date:	03/09/2005
101 West Sylvan Way	Compliance Officer:	Bill Smayda
P O Box 2098	Reason:	General
Neptune, NJ 07753		

Inspection Site:
Neptune City Department of 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

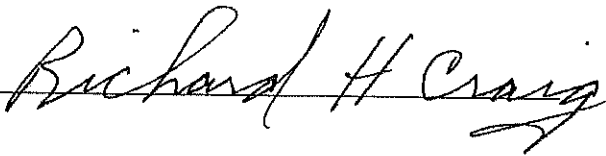
accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected 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, Director
Through Raymond Bellarosa, Assistant Director
Division of Public Safety & Occupational Safety & Health

BY: 

Richard H. Craig, 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 03/09/2005. The conference will be held at the OPEOSH office located at 1 John Fitch Way - 3rd Flr, 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: 308361302

Inspection Dates: 02/18/2005 -

02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Department of Public Works

Inspection Site: 41 TFH Way, Neptune, NJ 07753

Citation 1 Item 1 Type of Violation: Serious

29CFR1910.101(b): Section 3.3.2, Compressed Gas Association Pamphlet P-1-1965, as adopted by 29CFR 1910.101: Compressed gas cylinder storage areas were not prominently posted with the names of the gasses.

LOC.: Mechanics Bay, Five Assorted Compressed Gas Cylinders

The gas storage area was not posted with the names of the gasses being stored.

Abatement Documentation Required

Date By Which Violation Must be Abated: 05/11/2005

Per Diem Penalty Per Instance If Not Abated By 05/12/05: \$150.00

Citation 1 Item 2 Type of Violation: Serious

3/17/05

29 CFR 1910.106(e)(9)(i): Spills of flammable or combustible liquids were not cleaned up promptly:

LOC.: Upper Level Paint Storage Area

The plywood floor was soaked with, Thompson's Water Seal, a combustible liquid which was not cleaned up.

Abatement Documentation Required

Date By Which Violation Must be Abated: 05/11/2005

Per Diem Penalty If Not Abated By 05/12/05: \$120.00

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

**NJ Department of Labor and Workforce
Development**

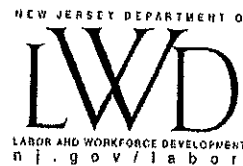
Office of Public Employees' Occupational
Safety & Health

Inspection Number: 308361302

Inspection Dates: 02/18/2005 -

02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Department of Public Works

Inspection Site: 41 TFH Way, Neptune, NJ 07753

Citation 1 Item 3 Type of Violation: **Serious** 4/4/05

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.: Tool Room, Nut And Bolt Storage Unit

The storage unit was not anchored to prevent tipping over.

Abatement Documentation Required

Date By Which Violation Must be Abated: **05/11/2005**

Per Diem Penalty If Not Abated By 05/12/05: \$120.00

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.176(c): Storage areas were not kept free from accumulation of materials that constituted hazards from tripping, fire, explosion or pest harborage:

LOC.: Storage Trailer Aisle

The aisle was blocked by storage which created a tripping hazard.

Date By Which Violation Must be Abated: **Corrected During Inspection**

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: 308361302

Inspection Dates: 02/18/2005 -

02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

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

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

29 CFR 1910.253(b)(4)(iii): Oxygen cylinders in storage were not separated from fuelgas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet (6.1 m) or by a noncombustible barrier at least 5 feet (1.5 m) high having a fire resistance rating of at least one-half hour:

LOC.: Mechanics Storage, One Oxygen Cylinder And Four Flammable Gas Cylinders

An oxygen cylinder was stored with four flammable gas cylinders.

Date By Which Violation Must be Abated: Corrected During Inspection

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1910.305(a)(2)(i): Temporary electrical power and lighting installations rated 600 volts, nominal, or less were used for purposes other than those permitted in subparagraphs (a), (b) and (c) of this paragraph:

LOC.: Mechanics Bay, Welder Extension Cord

An extension cord was used for the welder.

Date By Which Violation Must be Abated: Corrected During Inspection

Citation 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.334(a)(2)(i): Portable cord and plug connected electric equipment and flexible cord sets (extension cords) were not visually inspected before use on any shift for external defects (such as loose parts, deformed and missing pins, or damage to outer jacket or insulation) and for evidence of possible internal damage (such as pinched or crushed outer jacket):

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: 308361302

Inspection Dates: 02/18/2005 -
02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Department of Public Works

Inspection Site: 41 TFH Way, Neptune, NJ 07753

LOC.: Mechanics Bay, Welder Extension Cord

The cord covering was separated from the plug.

Date By Which Violation Must be Abated: **Corrected During Inspection**

Citation 2 Item 1 Type of Violation: **Other Than Serious** 3/17/05

29 CFR 1904.32(b)(2): The summary of Work Related Injuries and Illnesses (OSHA Form 300A or equivalent) was incomplete.

LOC.: Records, PEOSH Form 300A For 2004

The summary was not completed to reflect the correct data.

COMMENT:

12:100-5.1(b) New Jersey adopted 29CFR 1904 by reference at N.J.A.C. 12:100-4.2, in the New Jersey Register on September 4, 2001 (33NJR2994(a)). All requirements for the recording and reporting of work related deaths, injuries, and illnesses are contained in 29CFR 1904 with the following exceptions:

- 1) All references to the Secretary of Labor shall be deemed to mean the Commissioner of Labor of the New Jersey Department of Labor and Workforce Development.
- 2) All references to OSHA shall be deemed to mean the New Jersey Department of Labor and Workforce Development, Division of Public Safety and Occupational Safety and Health, Office of Public Employees Occupational Safety and Health (PEOSH).
- 3) All references to OSHA forms 300, 300A and 301 shall be deemed to mean New Jersey Occupational Safety and Health (PEOSH) forms 300, 300A and 301.
- 4) 29CFR 1904 Subpart B-Scope: New Jersey requires all public employers to record and report work related deaths, injuries or illnesses as contained in this chapter.

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: 308361302

Inspection Dates: 02/18/2005 -
02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

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

5) 29CFR 1904.1 Partial exemption for employers with (10) or fewer employees does not apply to New Jersey Public Employers as identified in NJSA 34:6A-7(c).

6) 29CFR 1904.2 Partial exemption for establishments in certain industries, does not apply to any New Jersey Public Employer as defined in NJAC 12:110-2.

Abatement Documentation Required

Date By Which Violation Must be Abated: **05/11/2005**

Per Diem Penalty If Not Abated By 05/12/05: **\$100.00**

Citation 2 Item 2 Type of Violation: **Other Than Serious** 3/17/05

29 CFR 1910.157(c)(1): Portable fire extinguishers were not mounted, located and identified so that they were readily accessible without subjecting the employees to injuries:

- LOC.: a.) Garage Bay #1, Fire Extinguisher
b.) Garage Bay #4, Fire Extinguisher
c.) Office Hallway, Fire Extinguisher
d.) Garage Stair, Fire Extinguisher

The portable fire extinguishers were not mounted at the locations listed.

- e.) Garage Bay #6, Fire Extinguisher

The portable fire extinguisher was blocked by pipes and was not mounted.

Abatement Documentation Required

Date By Which Violation Must be Abated: **05/11/2005**

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: 308361302

Inspection Dates: 02/18/2005 -

02/18/2005

Issuance Date: 03/09/2005



Notice of Unsafe or Unhealthful Working Conditions

Company Name: Neptune City Department of Public Works

Inspection Site: 41 TFH Way, Neptune, NJ 07753

Per Diem Penalty Per Instance If Not Abated By 05/12/05:

\$100.00

Citation 2 Item 3 Type of Violation: Other Than Serious

N.J.A.C.12:100-7.5(a): A hazard communication program was not developed, implemented and maintained at each workplace which at least describes how the criteria specified in N.J.A.C. 12:100-7.6-7.7 and 7.8 for labels and other forms of warning, material safety data sheets, and employee information and training will be met.

LOC.:Records

The employer did not provide a written hazardous communication program during the inspection.

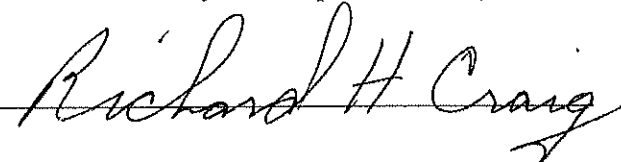
Abatement Documentation Required

Date By Which Violation Must be Abated: 05/11/2005

Per Diem Penalty If Not Abated By 05/12/05:

\$100.00

Howard Black, Director
Through Raymond Bellarosa, Assistant Director
Division of Public Safety & Occupational Safety & Health

BY: 

Richard H. Craig, Assistant Chief
Office of Public Employees Occupational Safety & Health

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

3/17/05

Borough of Neptune City
Department of Public Works
106 West Sylvania Avenue (mailing)
41 TFH Way
Neptune City, NJ 07753
732-775-1607
Fax 732-775-7352

TO: BILL SMAYDA

RE: COMPLETED ORDER TO COMPLY ITEMS

The following items have been completed to date:

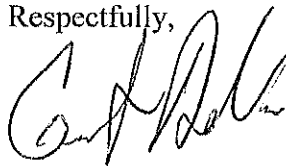
Citation 1, Item 2 – Plywood floor has been replaced

Citation 2, Item 1 – 300A for 2004 that reflects the Public Works Complex/Employees was corrected & updated for this complex only

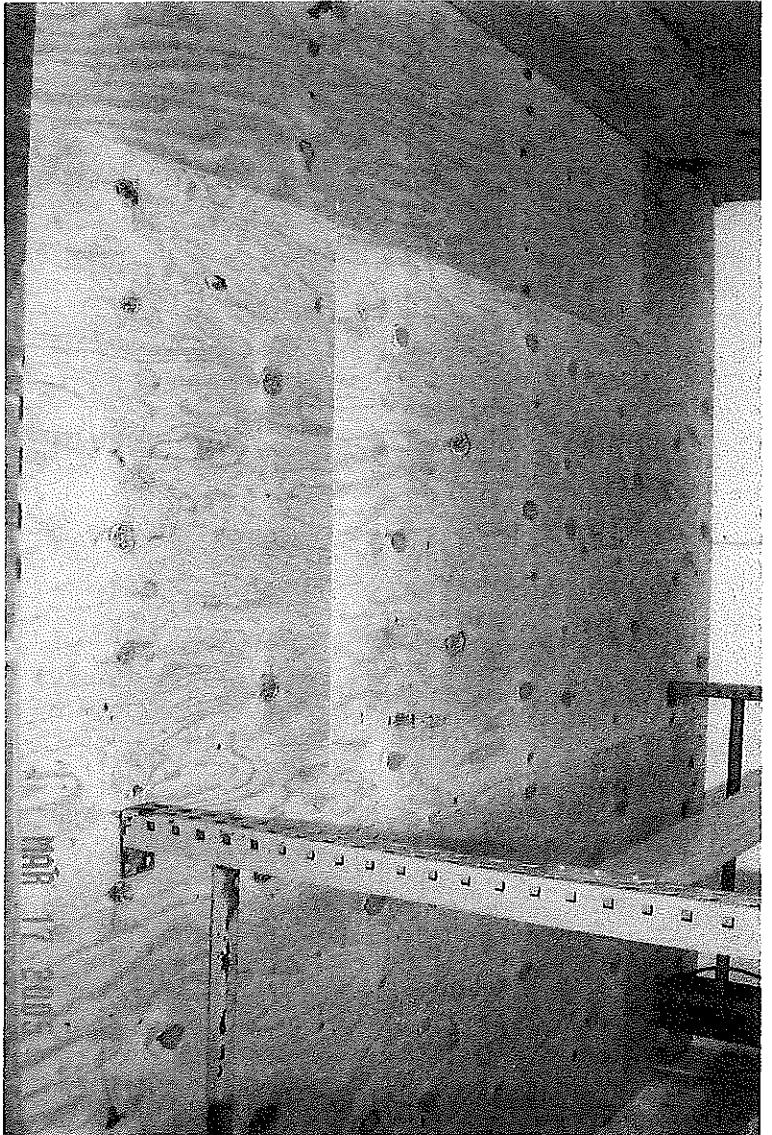
Citation 2, Item 2 – Fire Extinguishers were mounted

Citation 2, Item 3 – Hazard Communication Program, for your review

Respectfully,



Gerrit DeVos
Superintendent, CPWM



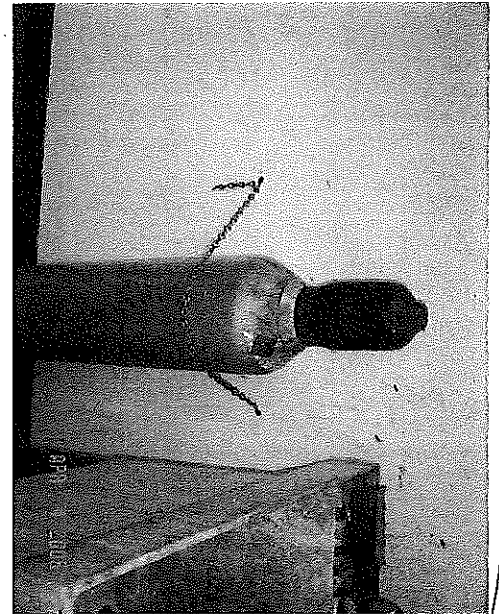
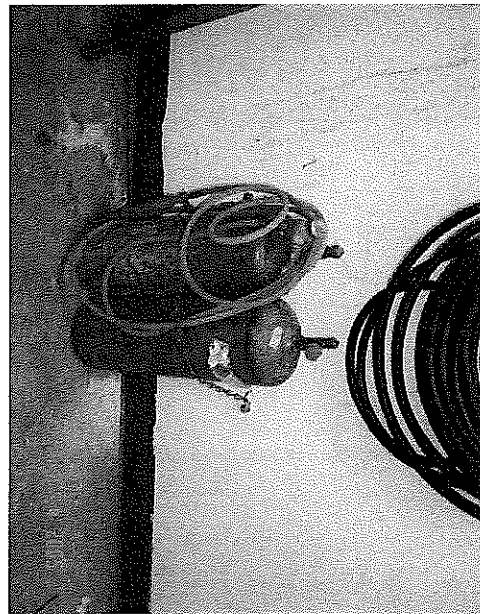
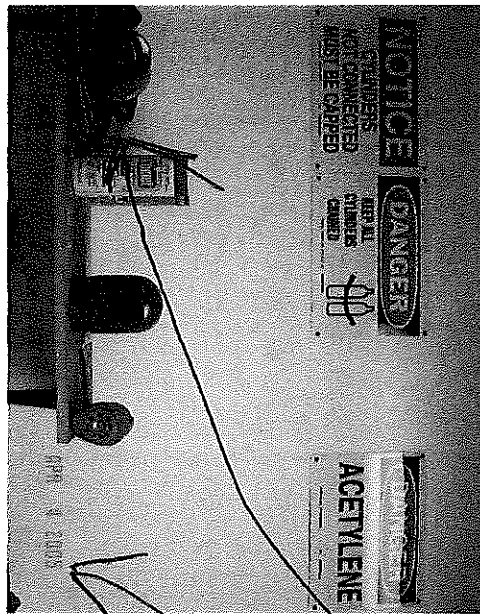
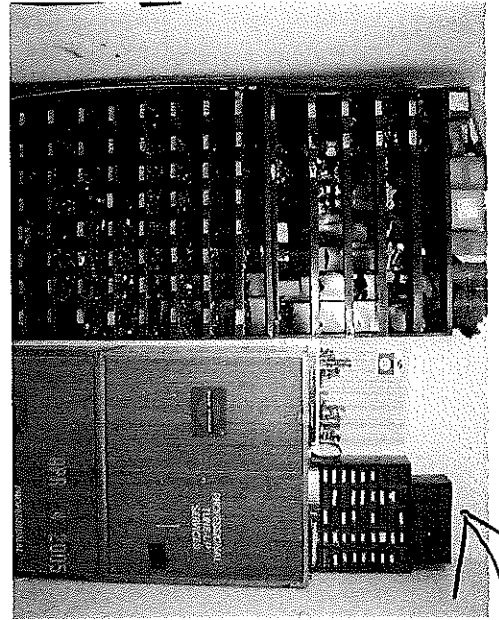
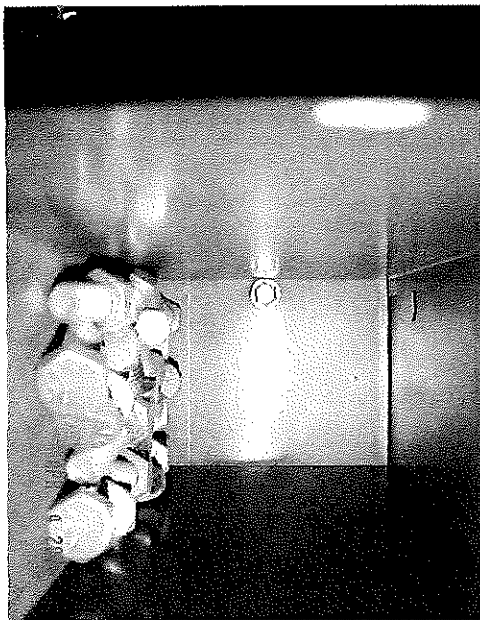
hp officejet 7130
printer/fax/scanner/copier

Fax-History Report for
Borough of Neptune City
732-775-7352
Mar 17 2005 2:29pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 17	2:25pm	Fax Sent	609-292-3749	4:04	13	OK

J HAZ Com Program
FAXED



Citation
#1 Item 3

Citation 1 Item 1

Sent to
Dept. of Labor
"ORDER TO Comply"

hp officejet 7130
printer/fax/scanner/copier

Fax-History Report for
Borough of Neptune City
732-775-7352
Apr 04 2005 1:14pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Apr 4	1:13pm	Fax Sent	609-292-3749	0:50	2	OK
