

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: (800) 624-1644 Fax: (609) 292-3749



NOTICE OF ORDER TO COMPLY

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

Inspection Number: 1317020
UPA Number: 1327706
Inspection Date (s): 05/11/2018-05/11/2018
Issuance Date: 06/18/2018
CSHO: E8170
Reason: Complaint

Inspection Site:
Tuckerton Fire Department
111 North Green Street
Tuckerton NJ 08087

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 and Workforce Development at the address shown above. Please refer to the enclosed Public Employees' Occupational Safety and Health Act which outlines your 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 an 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 notified 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 to conduct conferences requested from Orders to Comply issued pursuant to a certification from the Commissioner of Health that an employer violation has been determined to exist within the Department of Health 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 29 CFR 1903.19 to submit an Abatement Certification to the New Jersey Department of Health, PEOSH Program. This certification must be sent by you prior to 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.

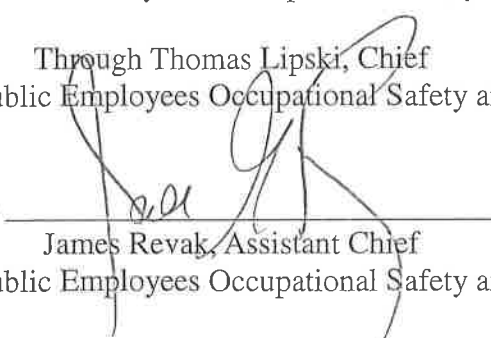
Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint, no later than 180 days after the employee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

Employer Rights 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
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief
Office of Public Employees Occupational Safety and Health

BY: 
James 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
(OPEOSH)

NOTICE TO EMPLOYEES

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions (Notice) issued on 06/18/2018. 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.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

Citation 1 Item 1 **Violation: Serious**

29 CFR 1910.120(q)(1): The employer did not develop and implement an emergency response plan to handle anticipated emergencies prior to commencement of emergency response operations.

LOC: Facility Wide

The employer did not implement an emergency response plan that effectively addresses the elements included in 1910.120(q)(2):

- (ii) Personnel roles, lines of authority, training, and communication,
- (iii) Emergency recognition and prevention,
- (iv) Safe distances and places of refuge,
- (vi) Evacuation routes and procedures,
- (vii) Decontamination,
- (ix) Emergency alerting and response procedures,
- (x) Critique of response and follow-up ,
- (xi) PPE and emergency equipment.

Note: On May 30, 2018 - Day 2 of the inspection, the employer had placed a copy of the Emergency Response Plan with required elements at the Fire Station.

Date By Which Violation Must be Abated:

Abated on May 30, 2018

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

Citation 1 Item 2 Violation: **Serious**

29 CFR 1910.134(c)(3): The employer shall designate a program administrator who is qualified by appropriate training or experience that is commensurate with the complexity of the program to administer or oversee the respiratory protection program and conduct the required evaluations of program effectiveness.

LOC: Facility Wide

The Borough of Tuckerton did not designate a Program Administrator who is qualified by appropriate training or experience to oversee the Respiratory Protection Program.

Note: On May 30, 2018 - Day 2 of the inspection, the employer had placed a copy of the Respiratory Protection Program at the Fire Station, and designated the Borough Administrator as the Program Administrator.

Date By Which Violation Must be Abated:

Abated on May 30, 2018

Citation 1 Item 3 Violation: **Serious**

29 CFR 1910.134(f)(2): The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.

LOC: Facility Wide

The employer had not provided respirator fit testing for employees using the MSA Ultra Elite self-contained breathing apparatus (SCBA) in the previous twelve months.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

August 03, 2018

Per Diem Penalty per Violation if not Abated:

\$4200.00

Citation 1 Item 4 Violation: **Serious**

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

29 CFR 1910.134(m)(3): A written copy of the current respirator program shall be retained by the employer.

LOC: Facility Wide

The employer did not provide employees with a current copy of the Respiratory Protection Program.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

August 03, 2018

Per Diem Penalty per Violation if not Abated:

\$4200.00

Citation 1 Item 5

Violation: **Serious**

29 CFR 1910.1030(c)(1)(iii): Each employer shall ensure that a copy of the Exposure Control Plan is accessible to employees in accordance with 29 CFR 1910.1020(e).

LOC: Facility Wide

The employer did not provide a current copy of the written Exposure Control Plan (ECP) in an accessible location for the employees.

Note: On May 30, 2018 - Day 2 of the inspection, the employer had placed a copy of the updated ECP at the Fire Station.

Date By Which Violation Must be Abated:

Abated on May 30, 2018

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

Citation 1 Item 6 Violation: **Serious**

29 CFR 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.

LOC: Facility Wide

The Borough of Tuckerton had not annually reviewed and updated the Exposure Control Plan (ECP).

Note: On May 30, 2018 - Day 2 of the inspection, the employer had placed a copy of the updated (1/1/2018) ECP at the Fire Station.

Date By Which Violation Must be Abated: Abated on May 30, 2018

Citation 1 Item 7 Violation: **Serious**

29 CFR 1910.1030(g)(2)(ii)(B): The employer must ensure that training provided to employees with occupational exposure is conducted at least annually.

LOC: Facility Wide

All employees did not receive the annual Bloodborne Pathogen training.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated: August 03, 2018
Per Diem Penalty per Violation if not Abated: \$3000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

Citation 1 Item 8 Violation: **Serious**

29 CFR 1910.1030(h)(1)(ii)(B): A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by paragraph (f)(2).

LOC: Facility Wide

Documentation of employees' Hepatitis B vaccination status was not available for review.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

August 03, 2018

Per Diem Penalty per Violation if not Abated:

\$3000.00

Citation 1 Item 9 Violation: **Serious**

29 CFR 1910.1200(h)(1): Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new physical or health hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and material safety data sheets.

LOC: Facility Wide

The employer did not provide Hazard Communication training to the first responders at the Tuckerton Fire Department.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

August 03, 2018

Per Diem Penalty per Violation if not Abated:

\$2400.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Tuckerton Fire Department
Inspection Site: 111 North Green Street

Tuckerton NJ 08087

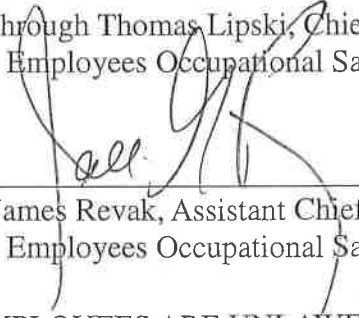
Inspection Number: 1317020
Inspection Date: 05/11/2018-05/11/2018

Issuance Date: 06/18/2018
UPA Number: 1327706
CSHO: E8170
Reason: Complaint

Signed on 06/18/2018 pursuant to the authority vested by law
in the New Jersey Department of Labor and Workforce Development.

Howard Black, Director
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief
Office of Public Employees Occupational Safety and Health

BY: 
James Revak, Assistant Chief
Office of Public Employees Occupational Safety and 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 or caused to be 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.

c: Complainant
Howard Black, Director
Employee Representative(s)

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Certification of Abatement Documentation

Please mail or fax all documentation related to this case to:

NJ Department of Health
Gary Centifonti, Director
Office of Public Employees Occupational Safety and Health
135 East State Street, 4th Floor
PO Box 369
Trenton NJ 08625-0369
Fax: (609) 984-2779

Note: If you need to speak with a compliance officer regarding this case, please call this office at (609) 984-1863.