

INDUSTRIAL COMMISSION OF ARIZONA

Division of Occupational Safety and Health

3419 Broadway Street Ste H8

American Canyon, CA 94503

Phone: (707) 649-3700 Fax: (707) 649-3712

Tucson Office Phone: (520) 628-5478 Fax: (520) 322-8008



Citations and Notification of Penalty

To:
Process Cooling International
4812 Enterprise Way
Modesto, CA 95356

Inspection Number: R4096-1230163
Inspection Date(s): 05/04/2017-UNKNOWN
Issuance Date: 10/27/2017

Inspection Site:
100 Main Street
Saint Helena, CA 94574

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.

An inspection of your workplace was recently conducted in accordance with the Arizona Occupational Safety and Health Act (Title 23, Chapter 2, Article 10). The inspection revealed conditions which we believe to be in violation of the Act. The nature of the alleged violation(s) is described in the enclosed Citation(s) with reference to applicable standards, rules and provisions of said Act. Furthermore, you are hereby notified, or will soon be notified, whether or not penalties will be assessed as a result of the cited violation(s). You must abate the violation(s) referred to in this Citation by the dates listed and pay the penalties, unless within fifteen (15) working days (excluding weekends and legal holidays) from your receipt of this Citation and Notification of Penalty you notify, *in writing*, the Division of Occupational Safety and Health, at the address shown above, of your intent to contest.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of your operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and legal holidays), whichever is longer. **YOU MUST COMPLY WITH THESE POSTING REQUIREMENTS EVEN IF YOU CONTEST THE CITATION.** The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

Notification of Corrective Action - You must certify in writing to the Division that each cited violation(s) has been corrected, in accordance with A.A.C.R20-5-627. This certification must be received within 10 calendar days following the abatement date, for those items which you do not contest. For those items contested, the certification is due immediately following any final order upholding the citation(s). The certification must contain the following: 1) the employer's name and address; 2) the inspection number; 3) the completion date and method of abatement for each violation; 4) a statement that the information is accurate and, 5) a statement that all affected employees and their representatives have been informed of the completed abatement. This certification is required for all citations - including those classified as non-serious - except those citations marked as "abated on site." (See note on page 2). The *Abatement Certification Form* accompanying this notice may be used to assist with this requirement. In addition to this certification, for

those items classified as **serious, willful** or **repeat**, documentation (photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. For those violations having an abatement date of more than ninety days, abatement plans and progress reports must be submitted to the Division if so indicated on the violation.

Note: Abatement certification and documentation are **not** required for those violations the inspector observed you or your representative correct during the inspection and which are marked as "Abated on site" within this citation.

A follow-up inspection may be made for the purpose of ascertaining that you have posted the citation(s) as required by the Act and corrected the alleged violations. **Failure to correct an alleged violation within the abatement period may result in further penalties of up to \$7000 for each day each alleged violation has not been corrected. Timely correction of an alleged violation does not affect the initial penalty.**

Note: The Act provides that anyone who knowingly gives false information is guilty of a class 2 misdemeanor.

Informal Conference - Before deciding whether to file a "Notice of Contest", you may request an informal conference with the section supervisor to discuss the Citation and Notification of Penalty. You may use this opportunity to:

- Obtain a better explanation of the violations cited;
- Obtain a more complete understanding of the specific standards that apply;
- Discuss ways to correct the violations;
- Discuss problems with the abatement dates;
- Discuss problems concerning employee safety practices;
- Resolve disputed citation(s) and penalties;
- Present any evidence or views that you believe would support an adjustment to the citations and/or penalties;
- Negotiate and enter into an Informal Settlement Agreement; and
- Obtain answers to any other questions you might have.

An informal conference is not required. However, you are encouraged to take advantage of the opportunity to have a conference if you foresee any difficulties in complying with any part of the citation. If an informal conference is held, be sure to bring with you any and all supporting documentation of existing conditions, as well as any abatement steps taken thus far. If conditions warrant, we can enter into an Informal Settlement Agreement which amicably resolves this matter without litigation or formal contest.

If you are considering a request for an informal conference, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. For this reason, an informal conference should be held within the 15 working day contest period (see following section). **The running of this contest period is not interrupted by an informal conference.**

Right to Contest - You have the right to contest this Citation and Notification of Penalty pursuant to A.R.S. Section 23-417. You may contest all citation items or an individual items. You may also contest penalties and/or abatement dates without contesting the underlying violation(s). To contest, you must notify the Director, in writing, within 15 working days after receipt of the Citation and Notification of Penalty. Unless you inform the Director in writing that you intend to contest the citation(s) and/or penalty(ies) within the 15

working day period provided by law, the citation(s) and the penalty(ies) shall be deemed a final order of the Commission and not subject to review by any court or agency.

Note: "Notify[ing] the Director" means that ADOSH must receive your written notice of contest prior to the close of business on the 15th working day following receipt of the citations.

If you contest the citation(s), the abatement period specified therein does not begin to run until the date of the Commission's final order in the case **provided** you have initiated this contest in good faith and not solely for delay or avoidance of penalties.

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless contested. Please make your check or money order payable to "Industrial Commission of Arizona" and indicate on your remittance the Inspection Number found on Page 1 of this notification. **ADOSH does not agree to any restrictions, conditions or endorsements put on any check or money order and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.**

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 30 calendar days after the discrimination occurred with the Division of Occupational Safety and Health at the address shown above.

Notice to Employees - The law gives you or your representative the opportunity to object to any abatement date set for a violation if you believe the date to be unreasonable. The contest must be mailed to the Division Director, P. O. Box 19070, Phoenix, Arizona, 85005-9070 within the abatement period allowed in the citation or within 15 working days from the date of receipt of the citation, whichever is shorter.

Additional Information - You should be aware that Federal OSHA publishes information on ADOSH's inspection(s) and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

ABATEMENT CERTIFICATION

A. A.C. R20-5-627 requires employers to certify to ADOSH, in writing, the abatement of all cited conditions, with the exception of those conditions observed abated by the compliance officer during the course of the inspection. This form is provided to assist you in complying with the abatement certification requirements. Note: For violations classified as willful, repeat or serious, abatement documentation (i.e. photographs, invoices, training records, etc.) must also accompany this certification form.

Process Cooling International
4812 Enterprise Way
Modesto, CA 95356

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____
(Specify Action Taken) _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____
(Specify Action Taken) _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____
(Specify Action Taken) _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____
(Specify Action Taken) _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____
(Specify Action Taken) _____.

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Signature

Typed or Printed Name



Citation and Notification of Penalty

Company Name: Process Cooling International
Inspection Site: 100 Main Street Saint Helena, CA 94574

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

ACCIDENT RELATED - SERIOUS

T8 CCR 1509(a) Injury and Illness Prevention Program.

Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.

Reference:

T8CCR§3203(a)(6). Injury and Illness Prevention Program.

Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and, (B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

Prior to and during the course of the inspection, including but not limited to, on or around May 4, 2017, the employer failed to implement and maintain an effective Injury and Illness Prevention Program in the following instances:

1. The employer failed to correct the observed imminent hazard of unsafe conditions, work practices and procedures when installing glycol pipes within 6 feet of multiple translucent fiberglass panels used for skylights on a corrugated metal roof of the glycol room located at 100 Main Street, Saint Helena, CA; and
2. The employer failed to remove all exposed personnel from the roof of the glycol room until the unsafe conditions, work practices and procedures were corrected and provided.

As a result, on 05/4/2017, an employee was fatally injured when the observed imminent hazard was not corrected and exposed personnel were not removed.

Date by Which Violation Must Be Abated:
Assessed Penalty:

Corrected During Inspection
\$18000.00



Citation and Notification of Penalty

Company Name: Process Cooling International
Inspection Site: 100 Main Street Saint Helena, CA 94574

Citation 2 Item 1 Type of Violation: **Willful-Serious**

ACCIDENT RELATED - WILLFUL-SERIOUS

T8 CCR§3212(e). Floor Openings, Floor Holes, Skylights and Roofs.

Any employee approaching within 6 feet of any skylight shall be protected from falling through the skylight or skylight opening by any one of the following methods:

- (1) Skylight screens installed above the skylight.
- (2) Skylight screens installed below the skylight.
- (3) Guardrails meeting the requirements of Section 3209.
- (4) The use of a personal fall protection system meeting the requirements of Section 1670 of the Construction Safety Orders.
- (5) Covers, including the skylight itself, meeting the requirements of subsection (b) installed over the skylights, or skylight openings.

Prior to and during the course of inspection including but not limited to on May 4, 2017, Applied Process Cooling Corporation APCCO, an exposing, creating, controlling and correcting employer at the worksite, assigned employees to install glycol pipes within 6 feet of translucent fiberglass skylights on a corrugated metal roof on the glycol room located at 100 Main Street, Saint Helena, CA. Employer failed to implement any of the methods listed Section 3212(e)(1)-(5) to protect employees from falling through the skylights.

As a result, on 05/4/2017, an employee was fatally injured when he fell through a skylight approximately 16 feet to the concrete working surface below. This citation is being issued in accordance with Section 336.10 multi-employer worksites.

Date by Which Violation Must Be Abated:	Corrected During Inspection
Assessed Penalty:	\$70000.00

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

Industrial Commission of Arizona
Division of Occupational Safety and Health

Inspection Number: 1230163
Inspection Date: 05/04/2017-UNKNOWN
Issuance Date: 10/27/2017
CSHO ID: R4096



Citation and Notification of Penalty

Company Name: Process Cooling International
Inspection Site: 100 Main Street Saint Helena, CA 94574

Kathy Lynn Garner

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

THE INDUSTRIAL COMMISSION OF ARIZONA COMPLIES WITH THE AMERICANS WITH DISABILITIES ACT OF 1990. IF YOU NEED THIS DOCUMENT IN ALTERNATIVE FORMAT, CONTACT SPECIAL SERVICES AT (602) 542-5991.



NOTICE OF PROPOSED PENALTIES

Company Name: Process Cooling International
Inspection Site: 100 Main Street Saint Helena, CA 94574
Inspection Number: 1230163
Issuance Date: 10/27/2017

Citation 1 Item 1, Serious	\$18000.00
Citation 2 Item 1, Willful-Serious	\$70000.00
TOTAL PENALTIES:	\$88000.00

If you are contesting this citation, please do not submit payment at this time. Penalties are due for uncontested citations within 15 working days of receipt of this notification.

To avoid additional charges, please remit payment promptly to this Office for the total amount of the uncontested penalties summarized above. Please make your check or money order payable to: "Industrial Commission of Arizona" within fifteen (15) working days and indicate on your remittance the Inspection Number found on Page 1 of this Notification.

ADOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

If you fail to make payment within thirty (30) days following receipt of this notice, this matter will be referred to our Legal Department. Should that happen you will incur additional liability including collection costs, attorney fees and interest on the judgment.

Delinquent Charges. A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made.

Director

Date