

U.S. Department of Labor

Occupational Safety and Health Administration
201 Varick Street
Room 908
New York, NY 10014
Phone: 212-620-3200 Fax: 212-620-4121



Citation and Notification of Penalty

To:
Cooper Tank & Welding Corp, dba Cooper Tank
Recycling
222 Maspeth Ave
Brooklyn, NY 11211

Inspection Number: 922211
Inspection Date(s): 07/24/2013 - 08/28/2013
Issuance Date: 01/16/2014

Inspection Site:
222 Maspeth Ave
Brooklyn, NY 11211
Attn: Ray Kredaras

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.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

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 the employer's 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 Federal 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 Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference 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 contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide *abatement certification* to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that *abatement documentation* is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

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 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her 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 U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. 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.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 01/16/2014. The conference will be held by telephone or at the OSHA office located at 201

Varick Street, Room 908, New York, NY 10014 on _____ at

_____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 922211

Company Name: Cooper Tank & Welding Corp, dba Cooper Tank Recycling
Inspection Site: 222 Maspeth Ave, Brooklyn, NY 11211
Issuance Date: 01/16/2014

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 201 Varick Street, Room 908, New York, NY 10014**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

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

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: Cooper Tank & Welding Corp, dba Cooper Tank Recycling
Inspection Site: 222 Maspeth Ave, Brooklyn, NY 11211

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees performing recycling of construction and demolition waste, during elevated heat conditions, were exposed to excessive heat without adequate measures to manage heat stress:

a) 222 Maspeth Ave. Brooklyn, NY 11211: On or about July 19, 2013 employees were exposed to excessive ambient heat from environmental sources and heat generated from machinery used in the recycling process. Such exposures may lead to the development of heat stroke and heat exhaustion. On July 19, an employee who had been working for several hours on the conveyor line suffered heat illness and died. The employees were sorting the recyclable materials inside a building. There was a week-long heat advisory issued by the National Weather Service. The employer failed to inform and train employees in the recognition, prevention and treatment of heat-related illness. The employer did not implemented work-rest regimen, did not provide controls to reduce temperatures in the work area.

Among other methods, a feasible and acceptable method of abatement includes, but is not limited to, establishing a heat stress management program which incorporates guidelines from the National Institute for Occupational Safety and Health (NIOSH) and OSHA Safety and Health Topics Page on Occupational Heat Exposure "Protecting Workers from Heat Illness." Among other measures, such a program may include:

1. Implement a heat acclimatization program for employees beginning work in hot environments or those returning from absences of three or more days.
2. Implement a work/rest regimen.
3. Reschedule work during the cooler periods of the day (e.g. early mornings and/or in the evenings).
- 4 Provide cool water and encouraging employees to drink about 1 cup every 15 to 20 minutes rather than relying on thirst.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



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5. Provide a training program for all employees, including temporary employees, contractors, and part-time employees, regarding the health effects associated with heat stress, symptoms of heat-induced illness, and methods of preventing such illnesses.
6. Instruct employees to wear light-colored, loose fitting breathable clothing.
7. Develop procedures to be followed for heat-related emergency situations.
8. Make provisions so that first-aid can be administered immediately to employees displaying symptoms of heat-related illness.
9. Provide a cool, climate-controlled area where heat-affected employees may take their breaks and/or recover when signs and symptoms of heat-related illnesses are recognized.

NOTE: IN ADDITION TO ABATEMENT CERTIFICATION, THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT DOCUMENTATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1,000.00 AS PER 29 CFR 1903.19.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 01/31/2014
Proposed Penalty: \$6300.00



Kay Gee
Area Director