

NEInternal
Memorandum

Date: October 17, 1977

RECEIVED

To: J.H. Paraskevas

Unit: ICD

From: D.W. Hurley

Unit: ICD

OCT 18 1977

Subject: OSHA LEAD-IN-AIR CITATION - PHILADELPHIA PLANT

JEFFREY E. SILVER

As you requested on October 14, 1977, I have attached a copy of the original lead-in-air OSHA citation dated December 22, 1976. We obtained a 9 month extension to March 1977 and a request for a second extension was denied by OSHA.

We are presently awaiting a hearing - a docket number has been assigned by the Department of Labor. The hearing could come at any time.

When we appear before the hearing officer, we must be able to demonstrate improvements in the cited areas a - g.

This time between the OSHA denial of an extension and the hearing date can be viewed as an informal extension. Accordingly, we should be moving ahead just as if we were granted the second extension.



DWH/dmc

cc: T.E. Anderson
J.A. Bielaus
W.E. Blair
M.A. DeSesa
J.L. Jacobs
J.E. Silver ✓
J.M. Stark

N 27294

CITATION

Harry S. Sachkar, Area Director
William J. Green Federal Building
600 Arch Street -- Suite 4256
Philadelphia, Pennsylvania 19106

(215) 597-4955/6/7

K9638

AREA

6540

REGION

3

TO:2

NL INDUSTRIES
2607 Cumberland Street
Philadelphia, Pennsylvania 19125

3. Citation Number 2

4. Page 1 of 5, 1

9. TYPE OF ALLEGED VIOLATION(S): REPEATED

An inspection was made on 9/29, 30 & 10/7, & 1975 of a place of employment located at:

8. 2607 Cumberland St., Phila., PA

and described as follows:

9. lead chemical producer

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, in the following respects:

10. Item Number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
	29 CFR 1910.1000 formerly 29 CFR 1910.93	Employees, in the following locations, were exposed to materials listed in Tables Z-2 of this section, and their exposures were not limited in accordance with the requirements of 29 CFR 1910.1000(b). Samples were obtained at the breathing zone of the employees: a) Oxide Department -- millman b) Building 9 -- Packer #13 and Blender #3 c) Building 2 -- Flash Drier Packer #5 d) Building 2 -- Packer #1 e) Building 2 -- continuous Drier Operator f) Building 18 -- Blender #2 g) Building 18 -- Packer #12 Employees at the preceding locations, a through g, were exposed to lead in excess of eight-hour time-weighted averages. The employer was previously cited for an alleged violation in Item Number 1 of the Citation Number 1 issued August 28, 1973, for this standard.	*Submission of a detailed plan for long term abatement to be submitted to the Area Director at the above address by January 22, 1976 *Complete abatement by June 22, 1976

*See Attachment for Abatement Requirements

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to create such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

No person shall discharge 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 Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c) (1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, (c) (1).

*The period of time for filing a complaint shall be extended to 30 days if the employee is unable to file within 15 days because of illness, injury, or other reasonable cause.

Area Director's Signature: *[Signature]*

Issuance Date: December 22, 1975

N 27294.01

NL 000041333

The issuance of a 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 the citation is affirmed by the Occupational Safety and Health Review Commission.

DESCRIPTIONS OF TYPES OF VIOLATIONS

NONSERIOUS violation is one which is not a serious violation within the meaning of the Act but which has a direct or immediate relationship to occupational safety and health.

SERIOUS violation, according to the Act, "shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation."

WILLFUL violation exists under the Act where the evidence shows (1) that the employer committed an intentional and knowing violation of the Act and the employer is conscious of the fact that what he is doing constitutes a violation of the Act, or (2) even though the employer was not consciously violating the Act, he was aware that a hazardous condition existed and made no reasonable effort to eliminate the condition.

REPEATED violation exists where the employer has abated an earlier violation, for which a citation was issued, and upon later inspection, is found to have committed the same violation.

Correspondence, or other forms of communication, relative to this citation should be directed to the office shown at the top of front page of this form. In correspondence, please refer to the OSHA-1 No. which appears in the upper right-hand corner of front page of this citation.

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION
William J. Greene, Jr., Federal Building
Suite 4456 - 600 Arch Street
Philadelphia, Pennsylvania 19106

DATE: December 22, 1975

TO: Mr. Daniel Hurley, Plant Manager
NL INDUSTRIES
2607 Cumberland Street
Philadelphia, Pennsylvania 19125



SUBJECT: Attachment to Citation issued December 22, 1975;
CSHO #K9638 OSHA-1 Report No. 63

ABATEMENT REQUIREMENT

Detailed Plan(s).....this detailed plan for the long term program is to include feasible engineering and/or administrative controls and a time schedule of proposed action for each cited item. This plan is to be implemented in accordance with their provisions.

Complete Abatement.....the date by which feasible engineering and/or administrative controls must be implemented to reduce the employees' exposure to the cited air contaminant to a level not to exceed the respective eight-hour time-weighted averages listed in Table G-3 or to the employees' exposure to noise levels in excess of those listed in Table G-16.

Until final abatement is achieved, written progress reports should be submitted to the Area Director every two months. List in each progress report the accomplishments on each cited item. Sampling results of specific operations should be included.

N 27294.02

NL 000041335

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration
Harry S. Sachkar, Area Director
William J. Green Federal Building
600 Arch Street -- Suite 4256
Philadelphia, Pennsylvania 19106

(215) 597-4955/6/7

CSHO NO.	OSHA-LNO.
K9638	63 76
AREA	REGION
6540	3

TO:
2. Mr. Daniel Hurley, Plant Manager
NL INDUSTRIES
2607 Cumberland Street
Philadelphia, Pennsylvania 19125

DEC 29 1975

D. W. HURLEY

Subject: Citation(s) for Alleged Occupational Safety and Health Violation(s)

An inspection of a place of employment has revealed conditions which we believe do not comply with the provisions of the Occupational Safety and Health Act of 1970, (29 U.S.C. 651 *et seq.*). The nature of such alleged violation(s) is described in the enclosed citation(s) with references to applicable standards, rules, regulations and provisions of the said Act. These conditions must be corrected on or before the date shown to the right of each alleged violation therein.

The Act requires that a copy of the enclosed citation(s) be prominently posted "in a conspicuous place upon receipt" at or near each place a violation referred to in the citation occurred. It must remain posted until all violations cited therein are corrected, or for 3 working days*, whichever period is longer. A sufficient number of copies of the attached citation(s) should be prepared to permit posting in accordance with the requirements of the Act. The Act provides for penalties for violation of the posting requirements.

You are hereby notified, or will soon be notified, whether or not penalty(ies) will be proposed as a result of the cited violation(s). You have the right to contest any or all parts of either the citation(s) or the proposed penalty(ies) before the Occupational Safety and Health Review Commission. The Review Commission is an independent agency with authority to issue decisions regarding citation(s) and proposed penalty(ies). If you do contest, you should submit a letter to the Area Director at the address shown above within 15 working days* after receipt of the certified mail notice regarding proposed penalty(ies). If you fail to contest within the 15 working day period, the citation(s) and the penalty(ies) as proposed, shall be deemed to be a final order of the Review Commission and not subject to review by any court or agency.

If an employer contests the citation, the abatement period specified therein does not begin to run until the date of the Commission's final order in the case *PROVIDED* the employer initiated his contest in good faith and not solely for delay or avoidance of penalties.

You have a right to request a discussion with the Area Director concerning any results of the inspection (abatement dates, citations, penalties, etc.). Please direct correspondence to, or call, the Area Director at the address shown at the top of this letter. A request for an informal discussion cannot extend the 15 working day period allowed for filing a notice of contest. Therefore, a request for an informal discussion should be brought to the attention of the Area Director prior to the end of the 15 working days allowed for filing a notice of contest, preferably as soon as possible.

An employee or representative of employees may file a notice (letter) to contest the reasonableness of the time stated in the citation for the abatement of the alleged violation(s).

Alleged violations that are not contested shall be corrected within the abatement period specified in the citation. A followup inspection may be made for the purpose of ascertaining that the employer has 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 proposed penalties for each day the alleged violation has not been corrected. Timely correction of an alleged violation does not affect the initial proposed penalty.

Correction of alleged violations which have an abatement period of 30 days or less should be reported in writing to the Area Director promptly upon correction. Reports of corrections should show specific corrective action on each such alleged violation and the date of such action. On alleged violations having an abatement date of more than 30 days, a written progress report should be submitted each 30 days. The progress report should detail what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, the Area Director should be so advised.

The Act provides that whoever knowingly gives false information is subject to a fine up to \$10,000, imprisonment up to 6 months, or both.

If you wish additional information, you may direct such request to the undersigned at the address shown above.

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays.

3. Citation(s) Enclosed	
Quantity	Pages
1	1
4. Notification of Proposed Penalty enclosed	
5. Yes	6. No

N 27294.03

U.S. Department of Labor
by Area Director

5.

Date December 22, 1975

OSHA 2C

NL 000041336

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

1. Harry S. Sachkar, Area Director
William J. Green Federal Building
600 Arch Street -- Suite 4256
Philadelphia, Pennsylvania 19106

CCHC NO.	(A-1) NO.
K9638	63
AREA	REGION
6540	3

(215) 597-4955/6/7

2. Mr. Daniel Hurley, Plant Manager
NL INDUSTRIES
2607 Cumberland Street
Philadelphia, Pennsylvania 19125

3. Date December 22, 1975
THERE IS NO REQUIREMENT THAT
THIS NOTIFICATION BE POSTED.

NOTIFICATION OF PROPOSED PENALTY

This notification and the penalty(ies) proposed by the Secretary of Labor shall be deemed to be the final order of the Occupational Safety and Health Review Commission (an independent agency with authority to issue decisions respecting citations and proposed penalties) and not subject to review by any court or agency unless, within 15 working days from the date of receipt of this notification, you submit a letter of contest. The letter of contest should be mailed or otherwise delivered to the Area Director named below at the address shown at the top of this notification. If no notice of contest is filed within the 15 working day period the proposed penalty(ies) becomes final and is immediately payable.

Payment of all penalties shown is to be made by check or money order payable to the order of "Occupational Safety and Health-Labor". Payment of penalties should be remitted to the Area Director at the address shown above.

Section 17(1) of the Act states: "Civil penalties owed under this Act shall be paid into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office."

4. On the 22nd day of December, 19 75 a citation(s) was issued to you in accordance with the provisions of Section 9(a) of the Occupational Safety and Health Act of 1970 (84 Stat. 1601; 29 U.S.C. 651, et seq.) hereinafter referred to as the Act. You were thus notified of certain alleged violations of the Act, as specified in that citation(s).

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of Section 10(a) of the Act, the penalty(ies) set forth below is/ are being proposed, based on the citation(s).

5. REPEATED VIOLATIONS			6. VIOLATIONS		
Citation No.	Item No.	Proposed Penalty	Citation No.	Item No.	Proposed Penalty
1	1	\$135.00			

7. Total Proposed Penalty for All Alleged Violations \$ 135.00

Area Director Date
December 22, 1975

The proposed penalty for this violation of safety and health standards reflects a 20 percent adjustment factor for corrective action taken within the period specified in the citation. If a penalty for alleged violation is not corrected within this period, the 20 percent adjustment will be added to the penalty by which a penalty may be proposed for failure to correct a violation within the adjustment period. No adjustment is allowed for violations of recordkeeping or posting requirements.

N 27294.04

NL 000041337