FILE NAME: Foseco (FOS)

DATE: 1974

DOC#: FOS042

DOCUMENT DESCRIPTION: Government Inspection Report - Citations

Certified
1-19-74

U.S. Department of Labor
Occupational Safety and Health Administration

1-3284 | 06

Area | Report ID
1680 | 3

Occupational Safety and Health Administration, USDL
1240 East 9th Street, Room 847
Cleveland, Ohio 44199

TO
Foseco Incorporated
20200 Sheldon Road
Cleveland, Ohio

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 [provisions] of the Occupational Safety and Health Act of 1970, (29 U.S.C. 651 et seq.). The nature of such [violations] is described in the enclosed citation(s) with reference to applicable standards, rules, regulations and [sections] of 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 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 violation(s). You have the right to contest any or all parts of either the citation(s) or the proposed penalty(ies) to 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 official 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 (including dates, citations, penalties, etc.). Please direct correspondence to, or call, the Area Director at the address and phone 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. However, 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 promptly to the Area Director promptly upon correction. Reports of correction should show specific corrective action taken to abate 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 citation(s) 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 want 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. Classification Received			
0	Willful		Repeat
		Nonserious	1
1		Serious	1
		Willful and/or repeated	

4. Consideration of Proposed Penalty Requested
☒ Yes ☐ No

U.S. Department of Labor
by Area Director

Date 1/15/ 19 74

EXHIBIT 138
ALL-STATE LEGAL

FOS-00-0000003573

EXHIBIT 42
PENGAD 800-631-6989
72373 dc

KOCSMAR EXHIBIT 138

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 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.

1.	R-3284
1680

CITATION

Occupational Safety and Health Administration, USDL
1240 East 9th Street, Room 847
Cleveland, Ohio 44199

2. TO:
Fosaco, Incorporated
20200 Sheldon Road
Cleveland, Ohio 44142

3. Citation Number 1

4. Page 1 of 5 1

5. TYPE OF ALLEGED VIOLATION(S): SERIOUS

An inspection was made on December 6, 19 73 of a place of employment located at
6. 20200 Sheldon Road, Cleveland, Ohio. and described as
7. formulates and manufacturers flakes, degasser and insulating products

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 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 [illegible]
1.	29 CFR 1910.93 (a)(b)(1)and(3) (c)(1)	Failed to provide engineering controls to prevent atmospheric contamination in excess of 5 asbestos fibers longer than 5 micrometer per cubic centimeter for an 8 hour time weighed average, and to prevent employees from being exposed to an excess of 10 asbestos fibers longer than 5 micrometers. Locations: (1) Pulping platform 07. (2) Pulping platform 0708.	January 1973

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 the 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 contest 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 any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Section 11 (c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

"As used in the Occupational Safety and Health Act, the term "Working Day" means any day, Monday through Saturday, but does not include Sundays or Federal holidays."

Issuance Date [illegible]

Area Director's Signature

[illegible]

FOS-00-0000003576

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 violated an earlier violation, for which a citation was issued, as 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 and Health Administration

1. 8-3264 | 4. 1

2. Occupational Safety and Health Administration, USDL
1240 East 9th Street, Room 847
Cleveland, Ohio 44199

3. TO:
Fosoco, Incorporated
20200 Sheldon, Road
Cleveland, Ohio 44142

3. Date January 15, 1974
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 [illegible] unless within 15 working days from the date of receipt of this notification, [illegible] of contest. The letter of contest should be mailed or otherwise delivered to the Area Director named above at the address shown [illegible] of this notification. If no notice of contest is filed within the 15 working day period the proposed penalty(ies) [illegible] 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 Admin". Payment of penalties should be remitted to the Area Director at the address shown above.

Section 17(f) 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 15th day of January, 19 74 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 thereby 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 are being proposed, based on the citation(s).

5. SERIOUS VIOLATIONS		
5A. Citation No.	5B. Item No.	5C. Proposed Penalty
1.	1.	$600.00

6. NONSERIOUS VIOLATIONS		
6A. Citation No.	6B. Item No.	6C. Proposed Penalty
1.	1.	$45.00
	2	$60.00

7. Total Proposed Penalty for All Alleged Violations $ 705.00

Area Director [signature] Date 1/15/74

The proposed penalty for Nonserious Violations of safety and health standards reflects a 50 percent adjustment factor for [illegible] to be taken within the period prescribed in the citation, if a corrective [illegible] is not corrected within this period, the [illegible] adjustment will be added to such other penalty as may subsequently be proposed for failure to correct a violation within the [illegible] period. No adjustment credit is given for the items of recordkeeping or posting requirements.

FOS-00-0000003578

Exhibit 1-18-74

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

K-3284 | 16
1630 | 5

Occupational Safety and Health Administration, USDL
1240 East 9th Street, Room 847
Cleveland, Ohio 44199

TO:
Fosaco Incorporated
20200 Sheldon Road
Cleveland, Ohio

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 violations is described in the enclosed citation(s) with references to applicable standards, rules, regulations and provisions of said Act. These conditions must be corrected on or before the date shown to the right of each alleged violation thereof.

The Act requires that a copy of the enclosed citation(s) be prominently posted "in a conspicuous place where notices to employees are customarily posted" 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 alleged 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 citation and 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 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 promptly to the Area Director promptly upon correction. Reports of corrections should show specific corrective action taken on each 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
2	Nonserious	1
1	Serious	1
	Willful and/or Repeated	

4. Notification of Proposed Penalty enclosed
☒ Yes ☐ No

U.S. Department of Labor
by Area Director

5. _____
Date 1/15/ 19 74

FOS-00-0000001235

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

Region V | K-3233
Area | 1630

CITATION

TO: 2.
Foseco, Incorporated
20200 Sheldon Road
Cleveland, Ohio 44142

3. Citation Number 2
4. Page 1 of 3 1

5.
TYPE OF ALLEGED VIOLATION(S): NONSERIOUS

6. An inspection was made on December 6, 19 73 of a place of employment located at:
7. 20200 Sheldon Road, Cleveland, Ohio, and described as:
8. formulates and manufacturers flukes, degassor & insulating products

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(s) alleged violation(s) occurred
1.	29 CFR 1910.93 (m)(3)(3)	Failed to provide annual comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers.	February 1974
2.	29 CFR 1910.134 (a)(2)&(3)	Failed to enforce the use of respirators which are applicable and suitable for the purpose intended and to establish and maintain a respiratory protective program. Locations: (1) Pulping platform 07. (2) Pulping platform 0708.	February 1974

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 the 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 contest 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 any proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Section 11(c)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

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

14. [illegible]
Area Director's Signature [signature] Issuance Date 1/15/, 19 74

NOTICE: Additional Information On Reverse Side

FOS-00-0000001236