

Orig. to GAI CIR
cc: JFC, ~~EJR~~, MAB
GAI

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION
550 MAIN STREET
CINCINNATI, OH 45202
513-684-3784
1-800-582-1708

August 14, 1989

McGraw Construction Co., Inc.
31 S. Canal
Middletown, OH 45042

Dear Sir:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussion in person or by telephone.

You will note on page 9 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information may allow us to close the case.

As indicated on page 10 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by 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.

McGCon 1913

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the citations as soon as the time, date, and place of the informal conference have been determined.

Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

Sincerely,


William M. Murphy
Area Director

Enclosures

NOTICE TO EMPLOYEES

An informal conference has been scheduled with OSHA to discuss the citations issued on August 14, 1989. The conference will be held at the OSHA office located at Federal Office Building - Room 4028, Cincinnati, Ohio 45202 on _____ at _____.

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION
550 MAIN STREET
CINCINNATI, OH 45202
513-684-3784
1-800-582-1708

August 14, 1989

C. Jack Ryburn
McGraw Construction Co.
31 S. Canal
Middletown, OH 45042

Dear Mr. Ryburn:

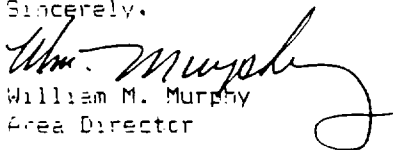
During an inspection of the job site at 655 S. University, the following conditions were observed:

1. Scaffolds were being erected and dismantled without the use of fall protection. We would recommend that you evaluate your procedures and implement the use of protection such as safety belts and lines where there are feasible locations to tie them to. In particular such protection should be evaluated at heights above 10' where fall protection is required when working from the scaffold deck.

2. Some of the scaffold planks were only 5 to 6' longer than the length of the scaffold frames which left little clearance in placing the planks and in several cases the cleats on planks were slightly bowed and beginning to pull loose from the planks. A total clearance of 10 to 12" would be more desirable to prevent such problems.

Although citations are not being recommended at this time either due to the absence of a specific standard for the condition or the lack of established employee exposure at the time of the inspection, these conditions should be corrected in order to maintain a safe and healthful workplace for your employees. Please inform us within 30 calendar days of the corrective actions which you have taken.

Sincerely,


William M. Murphy
Area Director

McGCon 1916

NOTICE

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the Department of Labor (29 CFR Part 20), effective March 8, 1985, the Occupational Safety and Health Administration is required to assess interest, penalties, and fees to cover the administrative costs of collecting delinquent penalties for violations of the Occupational Safety and Health Act.

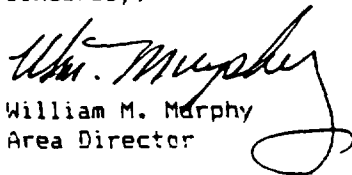
Interest charges are assessed at an annual rate determined by the Secretary of the Treasury. This rate is currently 6%.

Interest shall accrue from the date on which the citation and penalty (as proposed or adjusted) became a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the citation and proposed penalty, unless you file a notice of contest). Interest charges shall be waived if the full amount owed is paid within 30 days of the final order.

After 30 calendar days, the debt shall be delinquent unless a satisfactory payment arrangement has been made. Agencies of the Department of Labor are required to assess the administrative costs of recovering delinquent debts. If the debt remains delinquent for more than 90 calendar days, an additional penalty of six percent (6%) per annum shall be assessed accruing from the date that the debt became delinquent.

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties shown on the citation. Make your check or money order payable to: "DOL-OSHA." Please indicate OSHA's Inspection Number and Reporting ID (see citation) on the remittance.

Sincerely,


William M. Murphy
Area Director

Date: May 11 1989

Employer Rights & Responsibilities Following an OSHA Inspection



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

1989 (Revised)
OSHA 3000

McGCon 1918

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After An Inspection

An inspection of your workplace was conducted in accordance with the Occupational Safety and Health Act of 1970. The compliance safety and health officer (CSHO) who conducted the inspection has found conditions that may be in violation of the Act. The information relevant to these conditions will be evaluated by the CSHO's supervisor. If it is determined that a violation does exist, you will be issued a Citation and Notification of Penalty which explains in detail the exact nature of the violation(s) and any associated penalties.

This pamphlet contains important information regarding your rights and responsibilities under the Act. The information contained herein can and should be used as a discussion guide during your closing conference with the OSHA compliance officer. For each apparent violation found during the inspection, the compliance officer has discussed or will discuss the following with you:

- Nature of the violation,
- Possible abatement measures you may take to correct the violative condition, and

- Possible abatement dates you may be required to meet.

The CSHO is a highly trained professional who can help you recognize and evaluate hazards as well as suggest appropriate methods of correcting violations. To minimize employee exposure to possibly hazardous conditions, abatement efforts should always begin as soon as possible.

The following general information defines the types of violations and explains the actions you may take if you receive a citation as the result of an inspection.

Types of Violations

Willful: A willful violation is defined as a violation in which the employer knew that a hazardous condition existed but made no reasonable effort to eliminate it and in which the hazardous condition violated a standard, regulation, or the Occupational Safety and Health Act (the Act).

Serious: A serious violation exists when the workplace hazard could cause an accident or illness that would most likely result in death or serious physical harm, unless the employer did not know or could not have known of the violation.

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Repeated: An employer may be cited for a repeated violation if that employer has been cited previously for a **substantially similar condition** and the citation has become a final order of the Occupational Safety and Health Review Commission. A citation is viewed as a repeated violation if it occurs within 3 years either from the date that the earlier citation becomes a final order or from the final abatement date, whichever is later. For purposes of determining whether a violation is repeated, the following criteria generally apply:

1. **Fixed Establishments:** Citations issued to employers having fixed establishments (e.g., factories, terminals, stores) are normally limited to the cited establishment. A multifacility employer, for example, normally would not be cited for a repeated violation if the violation recurred at a plant other than the one previously cited.
2. **Nonfixed Establishments:** For employers engaged in businesses having no fixed establishments (e.g., construction sites, oil and gas drilling sites), repeated violations are alleged based on

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prior violations occurring anywhere within the same OSHA Area Office jurisdiction.

3. **Longshoring Establishments:** Longshoring employers are subject to repeated violation citations based on prior violations occurring anywhere within a designated port area.
4. **Maritime Establishments:** Other maritime establishments covered by OSHA standards (e.g., shipbuilding, ship repairing) are generally defined as fixed establishments. (See [1] above.)

IN CASES WHERE A VIOLATION IS DETERMINED TO BE EXTREMELY SERIOUS, IT CAN BE CITED AS REPEATED IF THE EMPLOYER HAS BEEN CITED FOR THE SAME SERIOUS VIOLATION ANYWHERE IN THE NATION WITHIN THE PAST 3 YEARS.

Other: A violation that has a direct relationship to job safety and health, but is not serious in nature, is classified as "other."

Posting Requirements

When you receive a Citation and Notification of Penalty, you must post the citation (or a copy of it) at or near the place where each violation occurred to make employees aware of the hazards to which they may be exposed. The citation must remain posted for 3 working days or until the violation is corrected, whichever is longer. (Saturdays, Sundays, and Federal holidays are not counted as working days.) You must comply with these posting requirements even if you contest the citation.

Employer Options

As an employer who has been cited, you may take either of the following courses of action:

1. If you agree to the Citation and Notification of Penalty, you should correct the condition by the date set in the citation and pay the penalty, if one is proposed; or
2. If you do not agree, you have 15 working days from the date you receive

the citation to contest in writing any or all of the following:

- Citation,
- Proposed penalty, and/or
- Abatement date.

How to Comply

For violations you do not contest, you must (1) promptly notify the OSHA Area Director by letter that you have taken the appropriate corrective action within the time set forth in the citation, and (2) pay any penalties itemized therein.

The notification you send the Area Director is generally referred to as a "Letter of Corrective Action." It must explain the specific action taken with regard to each violation and state the date each corrective action was taken.

If the employer has abatement questions after the inspection, the Area Director shall ensure that additional information, if available, is obtained and provided to the employer as soon as possible.

When the citation permits an extended time

for abatement, you must ensure that employees are adequately protected during this time. For example, the citation may require the immediate use of personal protective equipment by employees while engineering controls are being installed. When such is the case, you must also provide OSHA with periodic progress reports on your actions.

The penalties itemized on the Citation and Notification of Penalty are payable within 15 working days of receipt of the penalty notice. If, however, you contest the citation or penalty in good faith, abatement and payment of penalties for those items contested are suspended until the Occupational Safety and Health Review Commission reviews your case and issues a final order. The Review Commission is an independent agency and is not a part of the U.S. Department of Labor. The final order of the Commission will either uphold, modify, or eliminate the citations and/or penalties. Penalties for items not contested, however, are still due within 15 working days. (For further details, see the section on How to Contest.)

Payment should be made by check or money order payable to DOL-OSHA. Please indicate on your payment the OSHA number from the

upper right-hand corner of your citation and send it to the OSHA Area Office listed on the Citation and Notification of Penalty.

Informal Conference and Settlement

Before deciding whether to file a Notice of Intent to Contest, you may request an informal conference with the OSHA Area Director to discuss the Citation and Notification of Penalty. You may use this opportunity to do any of the following:

- Obtain a better explanation of the violations cited,
- Obtain a more complete understanding of the specific standards that apply,
- Negotiate and enter into an Informal Settlement Agreement,
- Discuss ways to correct violations,
- Discuss problems concerning the abatement dates,
- Discuss problems concerning employee safety practices,

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- Resolve disputed citations and penalties, and
- Obtain answers to any other questions you may have.

You are encouraged to take advantage of the opportunity to have an informal conference if you foresee any difficulties in complying with any part of the citation. Please note, however, that an informal conference will neither extend the 15 working day Notice of Intent to Contest period nor take the place of the filing of a written notice if you desire to contest. Employee representative(s) have the right to participate in any informal conference or negotiations between the Regional Administrator or Area Director and the employer.

If you agree that the cited violations do exist, but you have a valid reason for wishing to extend the abatement date(s), you may discuss this with the Area Director in an informal conference. He or she may issue an amended citation that changes the abatement date prior to the expiration of the 15 working day period without your filing a Notice of Intent to Contest.

You do not contest within 15 working days,

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your citation will become a final order. After this occurs, the OSHA Area Director may continue to provide you with information and assistance on how to abate the hazards cited in your citation, but may not amend or change any citation or penalty which has become a final order. The Area Director may only advise you on abatement methods or extend the time you need to abate the violation. (See Petition for Modification of Abatement).

How to Contest

If you wish to contest any portion of your citation, a Notice of Intent to Contest must be submitted in writing within 15 working days after receipt of the citation and notice of penalty even if you have orally stated your disagreement with a citation, penalty, or abatement date during a telephone conversation or an informal conference.

The Notice of Intent to Contest must clearly state what is being contested—the citation, the penalty, the abatement date, or any combination of these factors. In addition, the notice must state whether all the violations on the citation, or just specific violations, are being contested. (For example, "I wish to contest the citation and penalty proposed for

items 3 and 4 of the citation issued June 27, 1989.")

Your contest must be made in good faith. A contest filed solely to avoid your responsibilities for abatement or payment of penalties will not be considered a good-faith contest.

A proper contest of any item suspends your legal obligation to abate and pay until the item contested has been judicially resolved. If you contest only the penalty, you must still correct all violations by the dates indicated on the citation. If only some items on the citation are contested, the other items must be corrected by the abatement date and the corresponding penalties paid within 15 days of notification.

After you file a Notice of Intent to Contest, your case is officially in litigation. If you wish to settle the case, you may contact the OSHA Area Director who will give you the name of the attorney for OSHA handling your case. All settlements of contested cases are negotiated between you and the attorney according to the rules of procedure of the Occupational Safety and Health Review Commission.

The Contest Process

If the written Notice of Intent to Contest has been filed within the required 15 working days, the OSHA Area Director forwards your case to the Occupational Safety and Health Review Commission. The Commission assigns the case to an administrative law judge who usually will schedule a hearing in a public place close to your workplace. Both employers and employees have the right to participate in this hearing which contains all the elements of a trial, including examination and cross-examination of witnesses. You may choose to represent yourself or be represented by an attorney. The administrative law judge may affirm, modify, or eliminate any contested items of the citation or penalty.

As with any other legal procedure, there is an appeals process. Once the administrative law judge has ruled, any party to the case may request a further review by the full Review Commission. In addition, any of the three commissioners may, on his or her own motion, bring the case before the entire Commission for review. The Commission's ruling, in turn, may be appealed to the U.S. Court of Appeals for the circuit in which the

case arose or for the circuit where the employer has its principal office.

Petition for Modification of Abatement

Abatement dates are assigned on the basis of the best information available at the time the citation is issued. When you are unable to meet an abatement date because of uncontrollable events or other circumstances, and the 15 working day contest period has expired, you may file a "Petition for Modification of Abatement" (PMA) with the OSHA Area Director.

The PMA must be in writing and must be submitted no later than 1 working day after the abatement date. To show clearly that you have made a good-faith effort to comply, the PMA must include all of the following information before it can be considered:

- Steps you have taken in an effort to achieve compliance, and dates they were taken;
- Additional time you need to comply;

- Why you need additional time;
- Interim steps you are taking to safeguard your employees against the cited hazard(s) until the abatement;
- A certification that the petition has been posted, the date of posting and, when appropriate, a statement that the petition has been furnished to an authorized representative of the affected employees. The petition must remain posted for 10 working days, during which employees may file an objection.

A PMA may be granted or opposed by the OSHA Area Director. If it is opposed, it automatically becomes a contested case before the Review Commission. If a PMA is granted, a monitoring inspection may be conducted to ensure that conditions are as they have been described and that adequate progress toward abatement has been made. Further information on PMAs may be obtained from the OSHA Area Office.

Temporary and Permanent Variances

If you are unable to comply with a newly promulgated standard because of the unavailability of materials, equipment, or professional or technical personnel, you may apply to OSHA for a temporary variance from the standard.

To be eligible for a temporary variance, the employer must put into force an effective program for coming into compliance with the standard or regulation as quickly as possible. In the meantime, the employer must demonstrate to OSHA that all available steps are being taken to safeguard employees.

A temporary variance may be granted for up to 1 year; it can be renewed twice, each time for 6 months.

You may also apply for a permanent variance from a standard if you can prove that your present facilities or methods of operation are at least as safe and healthful as those required by the OSHA standard.

In making a determination on a permanent variance, OSHA reviews the employer's evidence and, where appropriate, arranges a visit to the workplace to confirm the

circumstances of the application. If the request has merit, OSHA may grant a permanent variance. Final variance orders detail the employer's specific responsibilities and requirements and explain exactly how the employer's method varies from the OSHA requirement.

Please note, however, that whenever an employer applies for either a temporary or a permanent variance, he or she must inform employees of the application and of their right to request a hearing.

Employee Courses of Action

Employees or their authorized representatives may contest any or all of the abatement dates set for violations if they believe them to be unreasonable. A written Notice of Intent to Contest must be filed with the OSHA Area Director within 15 working days after the employer receives the citation.

The filing of an employee contest does not suspend the employer's obligation to abate.

Employees also have the right to object to a PMA. Such objections must be in writing and must be sent to the Area Office within 10 days of service or posting. A decision

regarding the PMA will not be made until the issue is resolved by the Review Commission.

Follow-Up Inspection and Failure to Abate

If you receive a citation, a follow-up inspection may be conducted to verify that you have done the following:

- Posted the citation as required,
- Corrected the violations as required in the citation and/or
- Adequately protected employees and made appropriate progress in correcting hazards during multi-step or lengthy abatement periods.

In addition to providing for penalties for failure-to-post citations and failure-to-abate violations, the Act clearly states that you have a continuing responsibility to comply with the Act and assure your employees of safe and healthful working conditions. Any new violations discovered during a follow-up inspection will be cited.

To achieve abatement by the date set forth in

the citation, it is important that abatement efforts be promptly initiated.

Employer Discrimination

The Act prohibits employers from discharging or otherwise discriminating against an employee who has exercised any right under this law, including the right to make safety and health complaints or to request an OSHA inspection. Complaints from employees who believe they have been discriminated against will be investigated by OSHA. If the investigation discloses probable violations of employee rights, court action may follow.

Employees who feel they have been discriminated against must file their complaints within 30 days of the alleged act of discrimination. To obtain further information on this matter, employees may contact OSHA and inquire about Section 11(c) procedures.

Providing False Information

All information reported to OSHA by employers and employees must be accurate and truthful. Providing false information on

efforts to abate cited conditions or in required records is punishable under the Act.

Additional Information

For further information and assistance, please feel free to contact your OSHA Area Director.

Related Publications

A single free copy of the following materials can be obtained from OSHA field offices or the OSHA Publications Office, 200 Constitution Avenue, N. W., Room N-3101, Washington, D. C. 20210.

OSHA-2056 - All About OSHA

OSHA-3047 - Consultation Services for the Employer

OSHA-3071 - Job Hazard Analysis

OSHA-3084 - Chemical Hazard Communication

OSHA-3111 - Hazard Communication Guidelines for Compliance

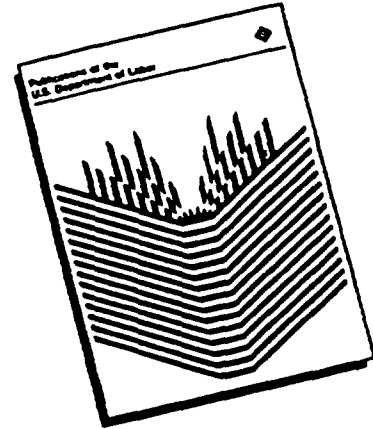
**OSHA-3088 - How to Prepare for Workplace
Emergencies**

**BLS Publication 421-3--What Every
Employer Needs to Know about OSHA
Recordkeeping**

**OSHA-3104 - Hazard Communication--A
Compliance Kit**

(This reference guide to step-by-step requirements for compliance with the OSHA standard is available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238. Request GPO Order No. 929-022-00000-9; \$18 - domestic; \$22.50 - foreign.)

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asking.**



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**U.S. Department of Labor
Room S-1032
200 Constitution Avenue, N.W.
Washington, D.C. 20210**

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 402B
550 Main Street
Cincinnati, OH 45202

3. Issuance Date 08/14/89	4. Inspection Number 101232707
5. Reporting ID 0522000	6. CSHO ID 01122
7. Optional Report No. 1234	8. Page No. 1 of 7

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

1. Type of Violation(s)	2. Citation Number
Serious	01

10. Inspection Date(s):

8/1/89 - 8/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

McGraw Construction Co., Inc.
and its successors
31 S. Canal
Middletown, OH 45042

Certified Mail No. 485153
Return Receipt Requested

Attn: President

THE LAW REQUIRES that a copy of this Citation be posted immediately in a prominent place at or near the location of violation(s) cited below. The Citation must remain posted until the violations cited below have been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

This Citation describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed below are based on these violations. You must abate the violations referred to in this Citation by the dates listed below and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. (See the enclosed booklet which outlines your rights and responsibilities and should be read in conjunction with this form.) You are further notified that unless you inform the Area Director in writing that you intend to contest the Citation or proposed penalties within 15 working days after receipt, this Citation and the proposed penalties will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. 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 the Citation is affirmed by the Review Commission.

12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
1a		The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from an accident. 29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury: (a) Employees erecting and using scaffolds on the job site had not received training in the safety requirements for such operations including the need to use parts which are not damaged, and the need to use appropriate attaching devices to secure scaffold sections and casters together.	09/17/89	450.0

17. Area Director

William M. Murphy - Area Director

18. Last Page

NOTICE TO EMPLOYEES — The law gives an employee or his representative the opportunity to object to any abatement date set for a violation if he 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 within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and penalty.

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 has been discriminated against may file a complaint no later than 30 days after the discrimination with the U.S. Department of Labor Area Office at the address shown above.

EMPLOYER RIGHTS AND RESPONSIBILITIES — The enclosed booklet outlines employer rights and responsibilities and should be read in conjunction with this notification.

CITATION AND NOTIFICATION OF PENALTY

ORIGINAL

McGCon 1931

OSHA-2 (Rev. 1/84)

Penalties Are Due Within 15 Days of Receipt of This Notification Unless Contested (See enclosed Booklet)

This Section May Be Detached Before Posting

Total Penalty for This Citation
Make Check or Money Order Payable to: "DOL-OSHA"
Indicate Inspection Number on Remittance

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 4028
550 Main Street
Cincinnati, OH 45202

3. Issuance Date 08/14/89	4. Inspection Number 101238707
5. Reporting ID 0522000	6. CSHO ID C1122
7. Optional Report No. 1234	8. Page No. 2 of 2

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

1. Type of Violation(s)	2. Citation Number
Serious	01

10. Inspection Date(s):

8/1/89 - 8/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

McGraw Construction Co., Inc.
and its successors
31 S. Canal
Middletown, OH 45042

Penalties
Are Due
Within 15
Days of
Receipt
of This
Notification
Unless
Contested
(See
enclosed
Booklet)

This Section
May Be
Detached
Before
Posting

THE LAW REQUIRES that a copy of this Citation be posted immediately in a prominent place at or near the location of violation(s) cited below. The Citation must remain posted until the violations cited below have been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

This Citation describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed below are based on these violations. You must abate the violations referred to in this Citation by the dates listed below and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. (See the enclosed booklet which outlines your rights and responsibilities and should be read in conjunction with this form.) You are further notified that unless you inform the Area Director in writing that you intend to contest the Citation or proposed penalties within 15 working days after receipt, this Citation and the proposed penalties will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. 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 the Citation is affirmed by the Review Commission.

12. Item Number	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
1b	29 CFR 1926.451(a)(3): Scaffold(s) were not erected, moved, dismantled or altered with the supervision of competent persons:	08/18/89	
	(a) The tubular welded scaffolds in use on the job were not erected under the supervision of a competent person as evidenced by the use of a cross brace which was rusted through by one attachment point, the intermixing of scaffold parts including the use of tube type and angle type cross bracing on the same bucks, the use of welding rods or wire as securing means between bucks, the absence of securing pins in the casters, and the wiring up of a caster lock to prevent its use.		
2	29 CFR 1926.59(e)(1): Employer had not developed or implemented a written hazard communication program which at least describes how the criteria in 29 CFR 1910.59(f), (g) and (h) will be met:	09/17/89	270.0
	(a) No written hazard communication program had been developed or implemented for construction operations such as the job site at 655 N. University Avenue.		

17. Area Director

William M. Murphy - Area Director

18. Last Pg

NOTICE TO EMPLOYEES — The law gives an employee or his representative the opportunity to object to any abatement date set for a violation if he 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 within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and penalty.

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 has been discriminated against may file a complaint no later than 30 days after the discrimination with the U.S. Department of Labor Area Office at the address shown above.

EMPLOYER RIGHTS AND RESPONSIBILITIES — The enclosed booklet outlines employer rights and responsibilities and should be read in conjunction with this notification.

CITATION AND NOTIFICATION OF PENALTY

ORIGINAL

McGCon 1932

OSHA 2 (Rev. 11-84)

Total
Penalty
for This
Citation
Make Check or
Money Order
Payable to:
"DOL-OSHA"
Indicate
Inspection
Number
on
Remittance

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 4028
550 Main Street
Cincinnati, OH 45202

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

3. Issuance Date	4. Inspection Number
08/14/89	101238707
5. Reporting ID	6. CSHO ID
0522000	C1122
7. Optional Report No.	8. Page No.
1234	2 of 2

1. Type of Violation(s)	2. Citation Number
Serious	01

10. Inspection Date(s):

8/1/89 - 9/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

McGraw Construction Co., Inc.
and its successors
31 S. Canal
Middletown, OH 45042

Penalties
Are Due
Within 15
Days of
Receipt
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Unless
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12. Item Number	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
3	29 CFR 1926.59(g)(8): Employer did not maintain copies of the required material safety data sheets for each hazardous chemical in the workplace and ensure that they are readily accessible to the employees in their work area during each work shift: (a) Material Safety Data Sheets were not available on site for the hazardous materials present including but not limited to the following: oxygen, acetylene, welding rods, Dow Corning silicone caulk, Mariite panel adhesive, and Sherwin Williams A-100 flat latex paint.	09/17/89	270.0

17. Area Director

William M. Murphy - Area Director

Wm. Murphy

18. Last Page

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 402B
550 Main Street
Cincinnati, OH 45202

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3. Issuance Date	4. Inspection Number
09/14/89	101238707
5. Reporting ID	6. CSHO ID
0522000	01122
7. Optional Report No.	8. Page No.
1226	4 of 7

Penalties Are Due Within 15 Days of Receipt of This Notification Unless Contested (See enclosed Booklet)

1. Type of Violation(s)	2. Citation Number
Serious	01

10. Inspection Date(s):

8/1/89 - 8/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

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Middletown, OH 45042

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12. Item Number	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
13. Standard, Regulation or Section of the Act Violated			
4 29 CFR 1926.59(h):	Employees were not provided information and training as specified in 29 CFR 1926.59(h)(1) and (2) on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area:	09/17/89	270.0
(a) Employees on the job site had not received training in the hazard communication program including availability and use of material safety data sheets.			
E 29 CFR 1926.351(b)(1):	Arc welding or cutting cable(s) were not of the completely insulated, flexible type, capable of handling the maximum current requirements of the work in progress:	09/24/89	270.0
(a) The Hobart welder being used at the job site had no covers over the exposed connections where the welding cables attached to the machine.			

17. Area Director

William M. Murphy - Area Director

18. Last Page

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Total Penalty for This Citation
Make Check or Money Order Payable to: "DOL-OSHA"
Indicate Inspection Number on Remittance

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 402B
550 Main Street
Cincinnati, OH 45202

3. Issuance Date 08/14/89	4. Inspection Number 101239707
5. Reporting ID 0522000	6. CSHO ID C1122
7. Optional Report No. 1226	8. Page No. 5 of 7

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

1. Type of Violation(s)	2. Citation Number
Serious	01

10. Inspection Date(s):

8/1/89 - 8/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

McGraw Construction Co., Inc.
and its successors
31 S. Canal
Middletown, OH 45042

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12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
5	29 CFR 1926.403(i)(2)(i): Live parts of electric equipment operating at 50 volts or more were not guarded against accidental contact by cabinets or other forms of enclosures, or by any of the following means: (A) by location in a room, vault, or similar enclosure that is accessible only to qualified person; (B) by partitions or screens so arranged that only qualified persons will have access to the space within reach of the live parts; (C) by location on a balcony, gallery, or platform so elevated and arranged as to exclude unqualified persons; (D) by elevation of 8 feet or more above the floor or other working surface and so installed as to exclude unqualified persons;	(a) At the northeast corner of the main store area [adjacent to aisle to restrooms] there were exposed wires protruding from a wall box one of which was energized and had the conductor exposed to contact. (b) At the main breaker panel where the Hobart welder was located, the panel cover was left off exposing 480 VAC contacts within the box.	Immediately Upon Receipt	\$40.00

17. Area Director

William M. Murphy - Area Director

18. Last Page

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CITATION AND NOTIFICATION OF PENALTY

ORIGINAL

McGCon 1935

OSHA-2 (Rev. 1/84)

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



Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 402B
550 Main Street
Cincinnati, OH 45202

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1. Type of Violation(s)	2. Citation Number
Serious	01

3. Issuance Date	4. Inspection Number
08/14/89	101233707
5. Reporting ID	6. CSHO ID
0522000	01122
7. Optional Report No.	8. Page No.
1236	5 of 7

10. Inspection Date(s):

8/1/89 - 8/9/89

11. Inspection Site:

655 N. University Blvd
Middletown, OH 45042

9. To:

McGraw Construction Co., Inc.
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12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
7	29 CFR 1926.404(b)(1)(i):	Employer did not use either ground-fault circuit interrupters as specified in paragraph (b)(1)(ii) of this section, or an assured equipment grounding conductor program as specified in paragraph (b)(1)(iii) of this section to protect employees on construction sites:	Immediately Upon Receipt	630.00
	a) Milwaukee drill SN 0689139065 was used on the roof in installing the canopy sheetmetal and was powered by 2 extension cords but had no GCFI or AEGCP in use.			
8	29 CFR 1926.404(f)(5):	The path to ground from circuits, equipment, or enclosures was not permanent and continuous:	Immediately Upon Receipt	630.00
	(a) Employees working on the canopy were using Milwaukee drill SN 0689139065 powered by extension cords, one of which had its ground prong removed.			

17. Area Director

William M. Murphy - Area Director

Wm. Murphy

18. Last Pg

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McGCon 1936

OSHA-2 (Rev. 1/84)

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3. Issuance Date 08/14/89	4. Inspection Number 101238707
5. Reporting ID 0522000	6. CSHO ID C1122
7. Optional Report No. 1236	8. Page No. 7 of 7

1. Type of Violation(s)	2. Citation Number
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10. Inspection Date(s):

8/1/89 - 8/9/89

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13. Standard, Regulation or Section of the Act Violated			
29 CFR 1926.451(a)(8): Scaffolds, including accessories such as braces, brackets, trusses, screw legs, ladders, etc. damaged or weakened from any causes were not immediately repaired or replaced:		Immediately Upon Receipt	450.0
(a) One of the tubular welded frame scaffolds on site had a cross brace which was rusted through and bent.			

17. Area Director

William M. Murphy - Area Director

18. \$ 3780.0

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McGCon 1937

OSHA-2 (Rev. 1/84)

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Citation and Notification of Penalty

U.S. Department of Labor - OSHA
Federal Office Building - Room 402B
550 Main Street
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1. Type of Violation(s)	2. Citation Number
Other	02

3. Issuance Date	4. Inspection Number
08/14/89	101238707
5. Reporting ID	6. CSHO ID
0522000	C1122
7. Optional Report No.	8. Page No.
1236	of 1

10. Inspection Date(s):

8/1/89 - 8/9/89

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12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
1	29 CFR 1903.2(a)(1):	The OSHA notice was not posted to inform employees of the protections and obligations provided for in the Act: (a) There was no OSHA poster displayed in the site.	Immediately Upon Receipt	0.0

17. Area Director

William M. Murphy - Area Director

18. \$

0.0

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CITATION AND NOTIFICATION OF PENALTY

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McGCon 1938

OSHA 309 (Rev. 1/84)