

U.S. Department of Labor

Occupational Safety and Health Administration
1099 Winterson Road
Suite 140
Linthicum, MD 21090



Notice of Unsafe or Unhealthful Working Conditions

To:

U.S. Department of Commerce, dba National Institute
of Standards and Technology
100 Bureau Drive
Gaithersburg, MD 20899

Inspection Number: 1624755

Inspection Date(s): 09/26/2022 - 12/30/2022

Issuance Date: 03/21/2023

Inspection Site:

National Fire Research Laboratory Bldg. 205 100
Bureau Drive
Gaithersburg, MD 20877

The violation(s) described in this Notice 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 Notice of Unsafe or Unhealthful Working Conditions (Notice) describes violations of the Occupational Safety and Health Act of 1970, the Executive Order 12196, and 29 CFR 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters. You must abate the violations referred to in this Notice by the dates listed unless, within 15 working days (excluding weekends and Federal holidays) from your receipt of this Notice you request an Informal Conference with the U.S. Department of Labor OSHA Area Office at the address shown above. Please refer to the enclosed publication "Federal Employer Rights and Responsibilities Following an OSHA Inspection" which outlines the appeals procedure for this Notice and which should be read in conjunction with this form. If you have any questions, please contact this office at (410) 865-2055.

Posting - The law requires that a copy of this Notice 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 the nature of the employer's operations, where it will be readily observable by all affected employees. This Notice 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.

Notification of Corrective Action - For each violation which you do not appeal, you must provide abatement certification to the Area Director of the OSHA office issuing the Notice 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 Notice 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 Notice. In addition, where the Notice indicates that abatement documentation is required, 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.

Program Responsibilities - Section 19(a)(1) of the OSH Act requires the head of each Federal agency to comply with applicable occupational safety and health standards. The intent of this section and Executive Order 12196 is implemented through 29 CFR 1960.8(b). If you are cited for violations of applicable safety and health standards, you have also violated the program element 29 CFR 1960.8(b), which stipulates:

"The head of each agency shall comply with the Occupational Safety and Health Administration standards applicable to the agency."

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 within 15 working days after receipt of this Notice. As soon as the time, date, and place of the informal conference have been determined, please complete the enclosed "Notice to Employees" and post it where the Notice is posted. During such an informal conference, you may present any evidence or views you believe would support an adjustment to the Notice. In addition, bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far.

If you are considering a request for an informal conference to discuss any issues related to the Notice, you must take care to schedule it early enough to allow time to appeal after the informal conference should you decide to do so. Please keep in mind that a written letter of intent to appeal must be submitted by the Agency's National OSH Manager to the OSHA Area Director within 15 business days of your receipt of the OSHA Notice to request that OSHA's Regional Administrator review the case.

Inspection Activity Data - You should be aware that OSHA publishes information on its inspection and notice 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 Notice. 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.

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with the Occupational Safety and Health Administration (OSHA) to discuss the Notice of Unsafe or Unhealthful Working Conditions (Notice) issued on 03/21/2023. The conference will be held by telephone or at the OSHA office located at 1099 Winterson Road, Suite 140, Linthicum, MD 21090 on _____ at _____ . Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1624755

Agency Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20877
Issuance Date: 03/21/2023

Employer Instruction: List the specific method of correction for each item on the enclosed notices that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1099 Winterson Road, Suite 140, Linthicum, MD 21090.** Failure to submit a timely certification of corrective action may result in a notification to your agency DASHO.

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

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By (Method of Abatement): _____

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Notice 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.

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

Inspection Number: 1624755
Inspection Date(s): 09/26/2022 - 12/30/2022
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Notice of Unsafe or Unhealthful Working Conditions

Company Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20877

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

29 CFR 1926.501(b)(1): Each employee on a walking/working surface with an unprotected side or edge which was 6 feet (1.8 m) or more above a lower level was not protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems.

(a) On or about September 26, 2022, Building #205- Test Structure/Second Floor, Northeast Corner: Employees performing demolition operations such as cutting holes in the concrete floor slab were exposed to a fall hazard up to 10-feet without wearing any means of fall protection.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated: March 29, 2023

See Pages 1 through 3 of this Notice for information on employer and employee rights and responsibilities.

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

Inspection Number: 1624755
Inspection Date(s): 09/26/2022 - 12/30/2022
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Notice of Unsafe or Unhealthful Working Conditions

Company Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20877

Notice 1 Item 2

Type of Violation: **Serious**

29 CFR 1926.850(i): Floor openings, not used as material drops, were not covered with a material substantial enough to support the weight of the load to be imposed:

(a) On or about September 26, 2022, Building #205- Test Structure/Second Floor, Northeast Corner: Employees performing demolition operations near uncovered floor openings were exposed to fall hazards. Employees were working near uncovered floor openings measuring 10-feet high by 12-feet long by 5-feet wide.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

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Notice of Unsafe or Unhealthful Working Conditions

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Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20877

Notice 1 Item 3 Type of Violation: **Serious**

29 CFR 1926.855(f): When floor arches are being removed, employees were allowed in the area directly underneath, and such an area was not barricaded to prevent access to it:

(a) On or about September 26, 2022, Building #205- Test Structure/Second Floor, Northeast Corner: Employees demolished rectangular slabs of concrete from the second floor of the test structure that measured 12-feet long, 5-feet wide, and 4-inches thick and the area directly underneath was not provided with a barricade to prevent employees from accessing the area.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include, but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

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Nadira Janack
Area Director

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Occupational Safety and Health Administration
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Notice of Unsafe or Unhealthful Working Conditions

To:

U.S. Department of Commerce, dba National Institute
of Standards and Technology
100 Bureau Drive
Gaithersburg, MD 20899

Inspection Number: 1631002
Inspection Date(s): 10/27/2022 - 03/13/2023
Issuance Date: 03/21/2023

Inspection Site:

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CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1631002

Agency Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg, 205 100 Bureau Drive, Gaithersburg, MD 20899
Issuance Date: 03/21/2023

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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.

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Notice of Unsafe or Unhealthful Working Conditions

Company Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20899

Notice 1 Item 1

Type of Violation: **Other-than-Serious**

29 CFR 1910.134(c)(1): A written respiratory protection program that included the provisions in 29 CFR 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use:

(a) On or about September 26, 2022, Building 205, Room 125, the employer had not developed a site-specific written respiratory protection program where employees were required to wear a 3M 8210 N95 respirator while performing demolition activities involving potential exposure to respirable crystalline silica.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated: March 27, 2023

See Pages 1 through 3 of this Notice for information on employer and employee rights and responsibilities.

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

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Notice of Unsafe or Unhealthful Working Conditions

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Notice 1 Item 2 Type of Violation: **Other-than-Serious**

29 CFR 1910.134(c)(3): The employer did not designate a program administrator who was qualified by appropriate training or experience to administer or oversee the respiratory protection program and to conduct the required evaluations of program effectiveness:

(a) On or about September 26, 2022, Building 205, Room 125, the employer did not have a designated qualified respiratory protection program administrator to evaluate the effectiveness of the program where employees were required to wear a 3M 8210 N95 respirator during demolition activities involving potential exposure to respirable crystalline silica.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

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Notice of Unsafe or Unhealthful Working Conditions

Company Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
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Notice 1 Item 3

Type of Violation: **Other-than-Serious**

29 CFR 1910.134(f)(2): Employee(s) using tight-fitting facepiece respirators were not fit tested prior to initial use of the respirator:

(a) On or about September 26, 2022, Building 205, Room 125, Employees that were required to wear a 3M 8210 N95 respirator were not fit tested to protect against potential exposure to respirable crystalline silica while performing demolition operations.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated: March 27, 2023

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

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Notice of Unsafe or Unhealthful Working Conditions

Company Name: U.S. Department of Commerce, dba National Institute of Standards and Technology
Inspection Site: National Fire Research Laboratory Bldg. 205 100 Bureau Drive, Gaithersburg, MD 20899

Notice 1 Item 4

Type of Violation: **Other-than-Serious**

29 CFR 1926.1153(d)(2)(i): The employer did not assess the exposure of each employee who was or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level in accordance with either the performance option in paragraph (d)(2)(ii) or the scheduled monitoring option in paragraph (d)(2)(iii) of this section:

(a) On or about September 26, 2022, Building 205, Room 125, the employer did not perform an assessment of potential exposure to silica where employees were potentially exposed to respirable crystalline silica during demolition operations while dry cutting concrete.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated: March 27, 2023

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Notice 1 Item 5 Type of Violation: **Other-than-Serious**

29 CFR 1926.1153(i)(1): Communication of respirable crystalline silica hazards to employees-Hazard communication. The employer did not include respirable crystalline silica in the program established to comply with the hazard communication standard (HCS) (29 CFR 1910.1200). The employer did not ensure that each employee has access to labels on containers of crystalline silica and safety data sheets and is trained in accordance with the provisions of HCS and paragraph (i)(2) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer, lung effects, immune system effects, and kidney effects:

(a) On or about September 26, 2022, Building 205, Room 125, Employees were exposed to respirable crystalline silica when operating a walk-behind saw, Hilti Hammer Drill, Sawzall, and Stihl gas powered Concrete Circular Saw during demolition operations while the employer had not included respirable crystalline silica in the Hazard Communication Program.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet), in addition, documentation demonstrating the abatement is complete must be included with your certification. This documentation may include but is not limited to evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

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Nadira Janack
Area Director

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