

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
1099 Winterson Road  
Suite 140  
Linthicum, MD 21090



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## Notice of Unsafe or Unhealthful Working Conditions

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**To:**  
U.S. Department of Agriculture, dba US Department  
of Agriculture  
1400 Independence Ave SW  
Washington, DC 20250

**Inspection Number:** 1308366  
**Inspection Date(s):** 03/29/2018 - 09/20/2018  
**Issuance Date:** 09/28/2018

**Inspection Site:**  
1400 Independence Ave SW  
Washington, DC 20250

*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*

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This Notice of Unsafe and 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 US 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 template 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](http://www.OSHA.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.





## NOTICE TO EMPLOYEES

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 09/28/2018. 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 – FEDERAL AGENCIES

**Inspection Number:** 1308366

**Agency Name:** U.S. Department of Agriculture, dba US Department of Agriculture

**Inspection Site:** 1400 Independence Ave SW, Washington, DC 20250

**Issuance Date:** 09/28/2018

**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): \_\_\_\_\_

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

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

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

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

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**

\_\_\_\_\_  
**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.

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.1025(h)(1): All surfaces were not maintained as free as practicable of accumulations of lead:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, employees were exposed to lead surface contamination ranging from 3.1 micrograms/100cm<sup>2</sup> to 238.9 micrograms/100cm<sup>2</sup> as a result of flaking and deteriorating lead based paint.

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.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date by which Violation must be Abated:**    10/18/2018

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

29 CFR 1910.1025(l)(1)(i): Employee(s) working in an area where there is potential exposure to airborne lead at any level were not informed of the content of Appendices A and B of 29 CFR 1910.1025:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, employees that were exposed to lead surface contamination ranging from 3.1 micrograms/100cm<sup>2</sup> to 238.9 micrograms/100cm<sup>2</sup> as a result of flaking and deteriorating lead based paint were not provided the information of the content of Appendices A and B.

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.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date by which Violation must be Abated:** 11/02/2018

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

29 CFR 1904.40(a): The employer did not provide an authorized government representative the records within the four business hours.

(a) South Building - On March 29, 2018, the OSHA 300 and 300-A forms were requested and were not provided until August 09, 2018.

Or, "IN THE ALTERNATIVE"

29 CFR 1960.67(a)  
(Per CPL-02-00-160)

(a) South Building - On March 29, 2018, the OSHA 300 and 300-A forms were requested and were not provided until August 09, 2018.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

**Date by which Violation must be Abated:**    11/02/2018



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

29 CFR 1960.8(c): The Agency did not develop, implement, and evaluate an occupational safety and health program in accordance with the requirements of section 19 of the Act, Executive Order 12196, and the basic program elements prescribed in this part, or approved alternate program elements:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, it was determined that the employer failed to fully implement the basic program elements of an effective safety and health program to ensure the identification and abatement of hazardous conditions such as lead contamination.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated:    11/02/2018

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**Notice 2 Item 3**      Type of Violation: **Other-than-Serious**

29 CFR 1960.12(c): The Agency poster was not posted to inform employees of the provisions of the Act, Executive Order 12196, and the agency occupational safety and health program:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, it was determined that the employer failed to post the agency's safety and health poster to ensure that employees were advised of their safety and health program and what to do when exposed to unsafe and unhealthy working such as being exposed to lead contamination.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated:    10/15/2018

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**Notice 2 Item 4**      Type of Violation: **Other-than-Serious**

29 CFR 1960.25(c): The Agency did not inspect annually, all areas in each workplace, including office operations:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, an annual inspection of the workplace had not been conducted which would have ensured the identification and abatement of hazardous conditions such as lead contamination.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated:    11/02/2018

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**Notice 2 Item 5**      Type of Violation: **Other-than-Serious**

29 CFR 1960.55(a): The Agency did not provide safety and health training for supervisory employees:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, the agency had not provided occupational safety and health training to management officials who, having the responsibility for providing and maintaining safe and healthful working conditions for employees, allowed employees to work in office spaces that had visible flaking lead based paint that had contaminated some of their working surfaces without advising them of the potential health hazards.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated:    11/02/2018

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**Notice 2 Item 6**      Type of Violation: **Other-than-Serious**

29 CFR 1960.57: As outlined in this section, the Agency did not provide effective training for safety and health inspectors:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, Safety and Health inspectors responsible for conducting inspections in a facility that has an ongoing lead contamination hazard in their un-renovated office space as a result of flaking/peeling lead base paint chips/dust falling onto office work surfaces and their safety inspectors have not received effective training to identify this as a potential ingestion hazards.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated:    11/02/2018

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**Notice 2 Item 7**      Type of Violation: **Other-than-Serious**

29 CFR 1960.59(a): The Agency did not provide appropriate safety and health training for employees:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, employees had not received safety and health training. Such training informs employees of the agency occupational safety and health program, with emphasis on employee rights and responsibilities and would have equipped them with the knowledge to recognize peeling paint in an old building as being a potential source of exposure to lead.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated: 11/16/2018

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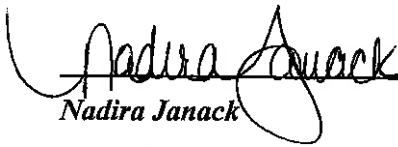
**Notice 2 Item 8**      Type of Violation: **Other-than-Serious**

29 CFR 1960.59(b): The Agency did not provide occupational safety and health training for employees of the agency who are representatives of employee groups, such as labor organizations which are recognized by the agency, that included both introductory and specialized courses and materials that will enable such groups to function appropriately in ensuring safe and healthful working conditions and practices in the workplace and enable them to effectively assist in conducting workplace safety and health inspections:

(a) South Building Throughout Wing 2 - On or about March 29, 2018, the President, Vice President and 2nd Vice President of AFSCME Local 3870, who represent the employees who were being exposed to lead surface contamination in their working space were not provided with safety and health training that would allow them to recognize this condition as a serious hazard.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the Certification of Corrective Action Worksheet).

Date by which Violation must be Abated: 11/02/2018

  
Nadira Janack  
Area Director