



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
WORKPLACE SAFETY AND HEALTH DIVISION
45 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0045

LAURA A. FORTMAN
COMMISSIONER

DR. JASON MOYER-LEE
DIRECTOR

September 10, 2024

Ann Bellefleur, Selectmen
Town of Perry
P.O. Box 430
Perry, ME 04667

Inspection Number: 1750780

Dear Ann Bellefleur:

The Bureau of Labor Standards completed an inspection on May 21, 2024 in which workplace conditions were found that violate Occupational Safety and Health rules. Pursuant to Title 26 MRSA Chapter 6 §565 and Board adopted agency work rules Chapter 2 and 3 which incorporates by reference OSHA 29 CFR part 1910 general industry and 29 CFR part 1926 construction industry standards plus amendments. The unsafe conditions identified are listed in the enclosed citation document attached to this report along with the reference to the applicable Safety and Health standard or regulation that applies. All unsafe conditions identified must be corrected by the abatement date indicated on the report.

The enclosed citations will become a final order within fifteen (15) business days from the day it was received, unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above. The total amount of the proposed penalty for the citations is \$3,500 payable to the "Treasurer, State of Maine".

Employer Options (within 15 business days of receipt of report):

Informal Conference: Within fifteen (15) days of receipt, you have the option of meeting with the Bureau Director or their designee, to present any evidence, which you believe would support an adjustment to the citations and/or penalties. Please keep in mind, an informal conference does not take the place of a written request letter for a penalty discussion or formal appeal. An informal conference is not required and does not need to be in writing. If you choose to request an informal conference, it is highly recommended to call our office to schedule this informal conference, as soon as you get this report. The informal conference does not delay or replace the contest time period for the two options below.

Penalty Discussion: If you intend to correct all hazards identified and wish to work with the Workplace Safety & Health Division to possibly reduce the penalty amount, you may request a "Penalty Discussion", in writing within fifteen (15) days of receipt of this report. (We will contact you to have a penalty discussion after receipt of the completed "Abatement Certification" form). This discussion will pertain only to the penalties and not the violations. All proposed penalties will be stayed until after the penalty discussion.

Or

Formal Appeal: You may file a formal appeal of any citation, abatement date, or penalty within fifteen (15) days of receipt of this report. Please be specific as to what citation(s), abatement date or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a "hearing" with the Maine Board of Occupational Safety & Health (BOSH). All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau or their designee, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose toward correction of the hazards. If no response is received within that time frame you accept all citations, dates of correction, any penalties assessed, and the citation report will become a final order. We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties of up to a \$1,000.00 per violation, for each day hazards are not corrected.

Extension of Abatement Date(s):

An employer may ask for an extension of an abatement date. The request must be in writing and received prior to the assigned abatement date. Please be specific as to the citations you are asking an extension for and the reason for the extension.

Dates to Remember:

- Respond in writing, to the Director or the Bureau within fifteen (15) business days of receipt of this report indicating what option you choose.
- All citations must be corrected by the abatement date listed on the citation pages of this report.
- Once the hazards have been corrected, the completed "abatement certification form" included in this report must be received by the Bureau within ten (10) business days after the citation abatement date.

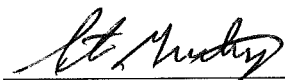
Posting Requirements:

The law requires that a copy of this Citation and notice of penalty be posted immediately in a prominent place at or near the location of the violations cited herein, or, if this is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This citation must remain posted until the violations cited herein have been abated.

Employer Discrimination Unlawful:

The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising and rights under that Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Maine Department of Labor, Bureau of Labor Standards at the address above.

The statutory authority for this order is established at Title 26 MRSA, sections 44, 44-A, 45, 46 and 565 et seq. anyone having questions regarding the enclosed citations or your fifteen (15) business day options may contact the Bureau of Labor Standards, Workplace Safety and Health Division at (207) 623-7923.



Steven L. Greeley, Director
Workplace Safety & Health Division
Maine Department of Labor

Maine Department of Labor

Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1750780
Inspection Date: 05/21/2024-05/30/2024
Issuance Date: 09/10/2024



Citation and Notification of Penalty

Company Name: Town of Perry Municipal Building/ Perry Public Works
Inspection Site: 555 South Meadow Road Perry, ME 04667

ABATEMENT CERTIFICATION WORKSHEET

Town of Perry Municipal Building/ Perry Public Works
555 South Meadow Road
Perry, ME 04667
Issuance Date:09/10/2024

Inspection Number: 1750780

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: Workplace Safety & Health Division, 45 State House Station, Augusta Maine 04333-0045.

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

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

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

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

Citation 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: MRSA Title 26 Chapter 3 §46 Any employer who fails to correct a violation for which a citation has been issued under section 45 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board in the case of any review proceeding initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than \$1,000 for each day during which such failure or violation continues.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

Maine Department of Labor

Bureau of Labor Standards
Workplace Safety & Health Division

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Citation and Notification of Penalty

Company Name: Town of Perry Municipal Building/ Perry Public Works
Inspection Site: 555 South Meadow Road Perry, ME 04667

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

1910.200(g)(2): The employer did not use all traffic control devices, including signs, signals, markings, barricades, and other devices, for the protection of construction workers, their activities shall conform to Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD) (incorporated by reference, see § 1926.6).

The Town of Perry Public Works did not use all traffic control devices such as advance notice signs and traffic control devices to protect workers during a road closure. Warning signs and traffic control devices were not deployed to notify drivers the road was under construction.

Date By Which Violation Must Be Abated: **October 14, 2024**
Proposed Penalty: **\$700.00**

Citation 1 Item 2 Type of Violation: **Serious**

1926.652(a)(1): The employer did not ensure each employee in an excavation was protected from cave-ins by an adequate protective system designed in accordance with paragraph (b) or (c) of this section.

The Town of Perry Public Works did not protect employees from struck-by and collapse hazards associated with trench work. On May 20, 2024, two public works employees were replacing a 24-inch culvert on 555 South Meadow Road, Perry Maine. Employees were working in a 7-foot in depth trench without the use of adequate protective systems such as a trench box, shoring, and/or sloping as means of protection against a trench collapse.

While both employees were working in the unprotected trench, the trench collapsed completely burying one employee and partially burying the other. One employee died as a result of the trench collapse.

Date By Which Violation Must Be Abated: **October 14, 2024**
Proposed Penalty: **\$700.00**

Maine Department of Labor

Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1750780
Inspection Date: 05/21/2024-05/30/2024
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Citation and Notification of Penalty

Company Name: Town of Perry Municipal Building/ Perry Public Works
Inspection Site: 555 South Meadow Road Perry, ME 04667

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

29 CFR 1926.651(c)(2): The employer did not ensure employees working in a trench excavation were provided a means of egress. A stairway, ladder, ramp, or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in-depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

The Town of Perry Public Works did not provide a means of egress from the trench excavation such as a ladder or other means of egress.

Date By Which Violation Must Be Abated: **October 14, 2024**
Proposed Penalty: **\$700.00**

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1926.651(j)(2): The employer did not protect employees from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

The Town of Perry did not protect the employees from materials or equipment that could pose a hazard, by storing the spoil pile less than 2 feet from the trench and placing the outrigger of the Case 580SV Construction King Center Pivot Backhoe Loader next to the trench on the soil near where the pavement ended.

Date By Which Violation Must Be Abated: **October 14, 2024**
Proposed Penalty: **\$700.00**

Maine Department of Labor

Bureau of Labor Standards
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Inspection Number: 1750780
Inspection Date: 05/21/2024-05/30/2024
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Citation and Notification of Penalty

Company Name: Town of Perry Municipal Building/ Perry Public Works
Inspection Site: 555 South Meadow Road Perry, ME 04667

Citation 1 Item 5 Type of Violation: Serious

1926.651(k)(1): The employer did not ensure daily inspections were conducted of excavations, the adjacent areas, and protective systems by a competent person for evidence of situations that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard-increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

The Town of Perry Highway Department foreman, designated as the competent person, did not conduct a daily inspection of the excavation for evidence of a situation that could result in possible cave-ins. On May 20, 2024, the day of the trench collapse, Town of Perry Public Works employees were working in a trench 7-feet deep without a daily inspection.

<u>Date By Which Violation Must Be Abated:</u>	<u>October 14, 2024</u>
<u>Proposed Penalty:</u>	<u>\$700.00</u>

Steven L. Greeley, Director
Workplace Safety & Health Division