

U.S. Department of Labor

Occupational Safety and Health Administration
Shattuck Office Center
138 River Road, Suite 102
Andover, MA 01810
Phone: (978)837-4460 FAX: (978) 837-4455



Citation and Notification of Penalty

To:
Massachusetts Bay Commuter Railroad Company, LLC
and its successors
70 Rear Third Ave
Somerville, MA 02143

Inspection Number: 315431874
Inspection Date(s): 04/19/2011-10/18/2011
Issuance Date: 10/18/2011

Inspection Site:
70 Rear Third Ave
Somerville, MA 02143

The violation(s) described in this Citation and Notification of Penalty 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 Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. 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 this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty 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 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 violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

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 during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

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 this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as 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.

Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For **each** violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification **must** be sent by you within **10 calendar days** of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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

Employer Rights and Responsibilities - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she 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 and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of penalty.

Inspection Activity Data - You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. 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.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 10/18/2011. The conference will be held at the OSHA office located at Shattuck Office Center, 138 River Road, Suite 102, Andover, MA, 01810 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CERTIFICATE OF CORRECTION

The undersigned certifies that on _____, all of the violations cited on
(date)

OSHA Citation # _____ issued on _____, were corrected and that a
(date)

copy of this Certificate of Correction was posted on _____ in a manner and place
(date)

for review by affected employees.

Employer's Signature



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

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

29 CFR 1910.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section:

(a) Location - Entire MBCR facility:

On or about 04/19/2011, employees were exposed to unexpected mechanical hazards when maintaining equipment and machinery without utilizing written energy control procedures. Employees worked on equipment such as, but not limited to: abrasive wheel grinders, lifts, press breaks.

Date By Which Violation Must be Abated:	12/02/2011
Proposed Penalty:	\$ 7000.00

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.

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

29 CFR 1910.215(a)(4): Work rest(s) on grinding machinery were not adjusted closely to the wheel with a maximum opening of one eighth inch:

(a) Location - Diesel Shop:

On or about 04/19/2011, employees were exposed to struck by, caught in between hazards when using abrasive wheel grinder (# 18), where the work rest was set at 5/16th of an inch.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 7000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

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

29 CFR 1910.215(b)(9): Abrasive wheel did not have adjustable tongue guard that could be adjusted to the constantly decreasing diameter of the abrasive wheel.

(a) Location - Carpentry Shop:

On or about 04/19/2011, employees were exposed to struck by hazards when using abrasive wheel grinders (#6) with the left tongue guard set at 1 inch and the right tongue guard over an inch.

(b) Location - Coach Shop:

On or about 04/19/2011, employees were exposed to struck by hazards when using abrasive wheel grinders (#18) without tongue guards.

(c) Location - Diesel Shop:

On or about 04/19/2011, employees were exposed to struck by hazards when using abrasive wheel grinder (#20) and/or with the tongue guards adjusted to greater than 1/4th of an inch.

Date By Which Violation Must be Abated: **Corrected During Inspection**

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

29 CFR 1910.304(f)(1)(iv): Overcurrent devices were not readily accessible to each employee or authorized building management personnel.

(a) Location - Store area:

On or about 4/19/2011, employees were exposed to electrical shock and caught in between hazards when immediate access to electrical panels was blocked.

(b) Location - Diesel Shop:

On or about 4/19/2011, employees were exposed to electrical shock and caught in between hazards when immediate access to electrical panels was blocked.

Date By Which Violation Must be Abated: **12/02/2011**
Proposed Penalty: **\$ 5500.00**

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

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.

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

29 CFR 1910.303(b)(2): Listed or labeled electrical equipment was not used or installed in accordance with instructions included in the listing or labeling:

(a) Location - Coach shop break area:

On or about 4/19/2011, employees were exposed to fire and electrical shock hazards when using a relocatable power tap which was not in accordance with the manufacturer's instruction.

Date By Which Violation Must be Abated:	12/02/2011
Proposed Penalty:	\$ 5500.00

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

29 CFR 1910.304(g)(5): The path to ground from circuits, equipment and enclosures was not permanent and continuous:

(a) Location - Coach Shop break area:

On or about 04/19/2011, employees were exposed to electrical shock hazards when using a relocatable power tap with a missing ground pin.

Date By Which Violation Must be Abated:	12/02/2011
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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

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

29 CFR 1910.334(a)(2)(i): Portable cord and plug connected electric equipment and flexible cord sets (extension cords) were not visually inspected before use on any shift for external defects (such as loose parts, deformed and missing pins, or damage to outer jacket or insulation) and for evidence of possible internal damage (such as pinched or crushed outer jacket):

(a) Location - Coach shop break area:

On or about 04/19/2011, employees were exposed to electrical shock and fire hazards when using a damaged (missing ground pin) relocatable power tap without inspecting it prior to use.

Date By Which Violation Must be Abated: 12/02/2011

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

29 CFR 1910.334(a)(2)(ii): When there was a defect or evidence of damage that could expose an employee to injury, the defective or damaged item was not removed from service until the repairs and tests necessary to render the electric equipment safe had been made:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical shocks and fire hazards when using damaged (missing ground pin) relocatable power tap to energize appliances.

Date By Which Violation Must be Abated: 12/02/2011



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

Citation 1 Item 5 Type of Violation: **Serious**

29 CFR 1910.303 (b)(1)(ii): Electrical equipment lacked mechanical strength and durability to provide adequate protection:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical hazards when working in close proximity to fluorescent lamps in service pits that were not guarded.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$ 5500.00

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1910.305(b)(2)(i): All pull boxes, junction boxes, and fittings shall be provided with covers identified for the purpose. In completed installations, each outlet box shall have a cover, faceplate, or fixture canopy.

(a) Location - Diesel shop:

On or 04/19/2011, employees were exposed to electrical shocks and fire hazards when using electrical outlets without faceplates.

(b) Location - Periodic inspection shop:

On or 04/19/2011, employees were exposed to electrical shocks and fire hazards when using electrical outlets without faceplates.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$ 5500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

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.

Citation 1 Item 7a Type of Violation: **Serious**

29 CFR 1910.305(g)(1)(iv)(A): Flexible cords and cables were used in lieu of fixed wiring of a building:

(a) Location - Diesel shop:

On or about 04/19/2011, employees were exposed to electrical shocks and fire hazards when using flexible cords in lieu of fixed wiring.

(b) Location - Service and inspection shop:

On or about 04/19/2011, employees were exposed to electrical shocks and fire hazards when using flexible cords in lieu of fixed wiring.

Date By Which Violation Must be Abated:	12/02/2011
Proposed Penalty:	\$ 5500.00

Citation 1 Item 7b Type of Violation: **Serious**

29 CFR 1910.305(g)(1)(iii)(B): Flexible cords or cables were run through holes in walls, ceilings, or floors:

(a) Location - Diesel shop:

On or about 04/19/2011, employees were exposed to electrical shocks and fire hazards when using flexible cords which were subject to damage when run across floors and through walls.

Date By Which Violation Must be Abated:	12/02/2011
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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

Citation 1 Item 8 Type of Violation: **Serious**

29 CFR 1910.333(a)(1): Live parts to which an employee could be exposed were not deenergized before the employee worked on or near them:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical shock, electrocution and fire hazards when changing an energized ballast inside rail cars.

Date By Which Violation Must be Abated: 12/02/2011
Proposed Penalty: \$ 7000.00

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.

Citation 1 Item 9a Type of Violation: **Serious**

29 CFR 1910.333(a)(2): Where exposed live parts were not deenergized, other safetyrelated work practices were not used to protect employees who could be exposed to the electrical hazards involved:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to shocks, fire and arc flash/blast hazards when working on energized electrical equipment without using electrical safety related practices such as: proper personal protective equipment, fire resistant clothing and voltage rated tools.

Date By Which Violation Must be Abated: 12/02/2011
Proposed Penalty: \$ 7000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

Citation 1 Item 9b Type of Violation: **Serious**

29 CFR 1910.335(a)(1)(i): Employees working in areas where there were potential electrical hazards were not provided with, and/or did not use, electrical protective equipment that was appropriate for the specific parts of the body to be protected and for the work to be performed:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical shock, electrocution and fire hazards when working on energized electrical parts without proper personal protective equipment such as voltage rated gloves and appropriate fire resistant clothing.

Date By Which Violation Must be Abated: 12/02/2011

Citation 1 Item 10 Type of Violation: **Serious**

29 CFR 1910.333(b)(2): While any employee was exposed to contact with parts of fixed electric equipment or circuits which had been deenergized, the circuits energizing the parts were not locked out or tagged or both:

(a) Location - Service and inspection shop:

On or about 04/19/2011, employees were exposed to electrical shock, electrocution and fire hazards when working on de-energized equipment that was not locked out/tagged out.

(b) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical shock, electrocution and fire hazards when working on de-energized equipment that was not locked out/tagged out.

Date By Which Violation Must be Abated: 12/02/2011

Proposed Penalty: \$ 7000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

Citation 1 Item 11 Type of Violation: **Serious**

29 CFR 1910.333(c)(2): Unqualified persons worked on electric circuit parts or equipment that had not been de energized:

(a) Location - Coach shop:

On or about 04/19/2011, unqualified employees were exposed to electrical shock, electrocution and fire hazards when working on energized electrical equipment.

(b) Location - Service and inspection shop:

On or about 04/19/2011, unqualified employees were exposed to electrical shock, electrocution and fire hazards when working on energized electrical equipment.

(c) Location - Coach shop:

On or about 04/19/2011, unqualified employees were exposed to electrical shock, electrocution and fire hazards when working on energized electrical equipment.

Date By Which Violation Must be Abated:	12/02/2011
Proposed Penalty:	\$ 7000.00



Citation and Notification of Penalty

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143

Citation 1 Item 12 Type of Violation: **Serious**

29 CFR 1910.335(a)(2)(i): When working near exposed energized conductors or circuit parts, each employee did not use insulated tools or handling equipment when the tools or handling equipment might have made contact with such conductors or parts:

(a) Location - Coach shop:

On or about 04/19/2011, employees were exposed to electrical shock, electrocution and fire hazards when changing an energized ballast inside rail cars without voltage rated tools.

Date By Which Violation Must be Abated:	12/02/2011
Proposed Penalty:	\$ 7000.00



Jeffrey A. Erskine
Area Director

U.S. Department of Labor

Occupational Safety and Health Administration
Shattuck Office Center
138 River Road, Suite 102
Andover, MA 01810
Phone: (978)837-4460 FAX: (978)837-4455



INVOICE/ DEBT COLLECTION NOTICE

Company Name: Massachusetts Bay Commuter Railroad Company, LLC
Inspection Site: 70 Rear Third Ave, Somerville, MA 02143
Issuance Date: 10/18/2011

Summary of Penalties for Inspection Number 315431874

Citation 1, Serious = \$ 76,500.00
TOTAL PROPOSED PENALTIES = \$ 76,500.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to:

"DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance.

OSHA does not agree to any restrictions or conditions put on any check or money order for less than the full amount due and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest. Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 5%. Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges. A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (5%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs. Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.


Jeffrey A. Erskine
Area Director

10/18/2014
Date