



New Jersey
Work Environment Council
Press Release

Safe, secure jobs and a healthy, sustainable environment

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NEW DANGERS FOUND AT NATION'S MOST POTENTIALLY HAZARDOUS CHEMICAL PLANT

WEC seeks action from NJ Governor Corzine

FOR IMMEDIATE RELEASE
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Kuehne Chemical, in South Kearny, New Jersey, has been cited and fined by the U.S. Occupational Safety and Health Administration (OSHA) for 33 worker safety and health violations, including lapses that could lead to a toxic chlorine release into surrounding communities. On November 10 and 14, 2008, OSHA issued citations to Kuehne for violating federal standards and assessed total penalties of \$48,650. Responding to OSHA's action, the NJ Work Environment Council (WEC), an alliance of 70 labor and community organizations, urged Governor Jon S. Corzine to convene a summit of federal, state, and Hudson County agencies, Kuehne management, community and labor organizations, and emergency responders to identify actions to reduce chlorine use at this plant and thus minimize the risk of a toxic catastrophe, while also preserving jobs. The Kuehne management, in cooperation with local emergency responders, should also be required to contact appropriate residents within the plant's vulnerability zone with instructions on what to do if a chlorine release does occur.

The most recent data submitted by Kuehne to U.S. EPA indicates that a worst-case release of chlorine gas from their plant could potentially endanger any of 12 million residents within a 14-mile area, including lower Manhattan. A national analysis of EPA *Clean Air Act* risk management planning data reveals that Kuehne has the greatest potential offsite consequence based on the number of residents affected of any chemical plant in the U.S. However, WEC maintains that the danger is unnecessary since safer and more secure alternatives exist that could all but eliminate a lethal chlorine gas release.

Among violations that could result in a disaster, OSHA found that Kuehne did not properly secure one-ton containers of liquid chlorine on forklift trucks to prevent them from falling off. OSHA also found that Kuehne violated standards by failing to:

- Accurately map potentially hazardous processes involving chlorine.
- Assess the potential of pipe erosion/corrosion due to the flow of chlorine and external moisture, which could cause a chlorine leak.
- Test appropriate locations for pipe thickness.
- Accurately address the hazards of chlorine gas from a catastrophic release entering the plant control room.
- Evaluate potential health effects on employees due to control failure.
- Consult with employees about chlorine hazards.
- Establish and implement written procedures to maintain mechanical integrity of process equipment.
- Investigate each incident where a rupture disc activated, which could have caused a catastrophic chlorine release.

WEC obtained the OSHA citations through the *Freedom of Information Act*.

In September, Kearny's Police Department announced a new \$1.2 million grant from the U.S. Department of Homeland Security for additional security measures, in part related to the presence of Kuehne. Police Chief John Dowie, quoted in the *Jersey Journal* on September 25, said that the Kuehne site "...is very difficult because it can be attacked by air, sea, or land" and that "We already spend a lot of man hours down there. We have more people in close proximity to the site than ever before."

However, according to WEC President John Pajak, "Kuehne's management is risking catastrophe by failing to obey the OSHA law. More gates, guards, cameras, and police patrols on Kuehne's perimeter won't be enough to ensure safety or security. Kuehne must also change its process on the inside, as they did in Delaware, and stop using large amounts of chlorine. That's the only way to truly protect workers and the public from a possible toxic disaster," Pajak concluded.

"This plant's current technology poses a risk to both workers and the community and it's now time for an investment to retool the plant, ensure safety, and maintain jobs," said WEC Director Rick Engler. Kuehne owners have unsuccessfully sought \$50 million in public funds to aid conversion to safer processing technology at the South Kearny site, maintaining that they cannot afford to bear the cost alone.

The New Jersey Work Environment Council is an alliance of 70 labor, environmental, and community organizations working for safe, secure jobs and a healthy, sustainable environment.

Background on Kuehne Chemical

- The Kuehne facility brings in large quantities of liquefied chlorine by railcar to manufacture sodium hypochlorite, a water disinfectant.
- Chlorine gas, depending on exposure level, can burn the eyes, lungs, and skin, or even lead to a build up of fluid in the lungs and death. Under certain weather conditions, chlorine can form a dense, ground-hugging cloud that would be deadly to anyone downwind. Rupture of a 90-ton chlorine railcar could kill anyone exposed to open air within the first two to three miles of the gas plume.
- At the firm's only other location in Delaware, Kuehne manufactures small quantities of chlorine on-site, using a process that eliminates any need to process large amounts of this lethal chemical.
- A ranking of EPA *Clean Air Act 112(r)* data reveals that Kuehne's South Kearny plant has the greatest potential offsite consequence based on the number of residents affected of any plant in the U.S.¹
- Governor Corzine, WEC, Greenpeace, and other organizations have repeatedly pointed to the continuing vulnerability of this plant to a possible terrorist attack and/or toxic accident. On February 20, 2007, WEC wrote to OSHA requesting that they inspect New Jersey industrial plants with the greatest potential off-site impact, including Kuehne, beginning with facilities that could harm 15,000 or more people. Until this year's May through November investigation, OSHA had not inspected Kuehne since 1997.
- The plant employs about 60 workers. They are not represented by a union.
- The Corzine Administration refuses to disclose documents showing what plans Kuehne has, if any, to adopt safer technology. These documents, required under state security requirements and the *NJ Toxic Catastrophe Prevention Act*, were to be filed with the N.J. Department of Environmental Protection by September 2, 2008.
- OSHA also found that Kuehne violated standards on chemical hazard communication to employees (including inadequate container labeling), ventilation, walking surfaces (on tanker trucks), noise, eye wash facilities, machine guarding, storage of oxygen cylinders, and electrical safety. Kuehne may contest the citations and penalties.

Resources

- Lenore Uddyback-Fortson, Press Contact, OSHA Area Office, (215) 861-5102
- Donald F. Nicolai, President and CEO, Kuehne, Inc. (973) 589-0700

WEC's recent report, *Still At Risk*, which ranks New Jersey facilities by their potential impact on residents, can be viewed at www.njwec.org. Additional information on the OSHA *Process Safety Management* Standard is available on OSHA's web site, www.osha.gov.

¹ The Center for American Progress report, which ranks Kuehne at the nation's most potentially dangerous facility, can be viewed at http://www.americanprogress.org/issues/2008/11/chemical_security.html.

**WEC Summary of OSHA Citations Issued Against
Kuehne Chemical Company, Inc., 86 Hackensack Ave., Kearny, NJ 07032**

*The complete OSHA citations are available by email
from WEC. Contact Campaign Coordinator Denise Patel at dpatel@njwec.org.*

**Inspection Number: 312111396
Inspection Dates: 5/20/2008 -10/28/2008
Issuance Date: 11/10/2008**

Violations of the Process Safety Management Standard

Citation 1 Item 1 Serious Violation

Section 5(a)(1) of the Occupational Safety and Health Act. Kuehne did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or physical harm to employees in that employees were exposed to "Struck By Hazards/Inhalation of Toxic Chlorine Gas..." in the repackaging department.

Ton containers of liquid Chlorine were transported to and from filling stations on a forklift truck. The ton containers were not restrained to prevent them from falling off.

Citation 1 Item 2 Serious Violation

29CFR 1910.119(c)(2): The employer did not consult with employees on the conduct and analyses of process hazards analyses, facility-wide, including for chlorine repackaging.

Citation 1 Item 4 Serious Violation

29CFR 1910.119(d)(3)(i)(B): Process safety information was inadequate and plant diagrams were inadequate.

Citation 1 Item 5 Serious Violation

29CFR 1910.119(d)(3)(i)(F): Process safety information did not include design codes and standards employed.

Citation 1 Item 6 Serious Violation

29CFR 1910.119(e)(3)(i): Process safety information did not address the hazards of the process and the hazards of internal/external pipe erosion/corrosion due to the flow of chlorine in process piping and external moisture.

Citation 1 Item 7 Serious Violation

29CFR 1910.119(e)(3)(v): The process hazard analysis did not address facility siting; it did not accurately address the ingress of chlorine gas due to a catastrophic release from the chlorine lines into the control room.

Citation 1 Item 9 Serious Violation

29CFR 1910.119(j)(2): The employer did not establish and implement written procedures to maintain the ongoing mechanical integrity of process equipment.

Citation 1 Item 10 Serious Violation

29CFR 1910.119(j)(4)(ii): Inspections and testing procedures to maintain mechanical integrity did not follow recognized and generally accepted good engineering practices. "The employer conducted ultrasonic thickness testing on piping containing liquid chlorine. The testing did not include all appropriate locations...", including those covered by Chlorine Institute guidelines.

Citation 1 Item 11 Serious Violation

29CFR 1910.119(j)(4)(iv): The employer did not document thickness testing and inspections on chlorine piping.

Citation 1 Item 13 Serious Violation

29CFR 1910.119(m)(1): The employer did not investigate each incident which resulted in, or could have reasonably resulted in, a catastrophic release of a highly hazardous chemical. The employer did not investigate when rupture discs activated.

Citation 1 Item 14 Serious Violation

29CFR 1910.119(o)(1): The employer did not effectively audit their written inspection and testing procedures and management of change documentation.

Inspection Number: 312236607
Inspection Dates: 5/22/2008 -11/13/2008
Issuance Date: 11/14/2008
Violations of Other Standards

Citation 1 Item 5 Serious Violation

29CFR 1910.106(d)(4)(iv): The ventilation system(s) of the inside flammable or combustible liquid storage room(s) did not provide for a complete change of air within the room at least six times per hour.

Citation 2 Item 1 Other Violation

29CFR 1910.1200(e)(1) The employer did not develop and implement a written Hazard Communication Program which at least describes how the criteria in the standard will be met. Kuehne did not ensure that paints, solvents, ethyl alcohol, and various hydrocarbons in the chemical storage area were labeled.

CSS Kuehne PR Nov 2008

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