

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
43 Kline Village  
Harrisburg, PA 17104  
Phone: 717-782-3902 Fax: 717-782-3746



## Citation and Notification of Penalty

**To:**  
Phytogenx, Inc  
35 Thousand Oaks Blvd  
Morgantown, PA 19543

**Inspection Number:** 1111632  
**Inspection Date(s):** 12/10/2015 - 12/10/2015  
**Issuance Date:** 06/08/2016

**Inspection Site:**  
35 Thousand Oaks Blvd  
Morgantown, PA 19543

*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 either call to schedule an informal conference (see paragraph below) or 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.

**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 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. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

**Notification of Corrective Action** – For each violation which you do not contest, you must provide *abatement certification* to the Area Director of the OSHA office issuing the citation 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 citation 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 Citation. In addition, where the citation indicates that *abatement documentation* is necessary, 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.

**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 these alleged violations will be posted when our system indicates that you have received this citation. 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 OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 06/08/2016. The conference will be held by telephone or at the OSHA office located at 43 Kline Village, Harrisburg, PA 17104 on \_\_\_\_\_ at \_\_\_\_\_.

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1111632**

Company Name: Phytogenx, Inc  
Inspection Site: 35 Thousand Oaks Blvd, Morgantown, PA 19543  
Issuance Date: 06/08/2016

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: **U.S. Department of Labor – Occupational Safety and Health Administration, 43 Kline Village, Harrisburg, PA 17104**

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

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: 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



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees:

- a) Warehouse areas - Sufficient safe clearances did not exist in some floor level storage rack slots where employees operated Raymond standup rider forklifts in that the operator compartment and overhead guard of this forklift had heights above the floor of 50 inches and 88 inches respectively while the horizontal rack beams in racking "D" for instance had a height above the floor of 58 inches. This would allow the horizontal rack beam at some storage locations to enter the operator compartment of the Raymond standup style forklift, pinning the operator between the horizontal rack beam and the frame of the forklift, on or about December 10, 2015.

Abatement certification required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

Employers should evaluate their worksite to determine if an under-ride hazard exists. If there are rack crossbars or similar obstructions in the facility, the employer should take one or more of the following actions:

1. If possible, make modifications to the shelving system. Adjust the shelf heights so that the body of the forklift below the operator's compartment will strike the rack in the event of contact, preventing under-ride from occurring. Adjust the shelf heights so that the forklift's overhead guard will strike the rack in the event of contact, preventing under-ride from occurring.
2. Install a barrier, even with the outer edge of the storage rack (such as a curb or floor level shelf), so that the bottom of the forklift will strike the curb or shelf in the event of contact, preventing an under-ride from occurring.
3. Purchase, where appropriate, standup forklifts that have corner posts, extended backrests, rear post guards, or other features to prevent an under-ride from occurring. (Specific guards or other

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:** Phytogenx, Inc

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means that enhance safe operations would be determined through cooperation between the user and manufacturer (see ANSI /ITSDF B56.1-2005, para.4.5.3, 7.30, and 7.36).)

4. Contact the manufacturer to discuss installing rear post guards or other equivalent protections that address the under-ride hazard on existing standup forklifts. These posts may be available from the forklift manufacturer. (Note that modifications and additions which affect safe operation shall not be performed by the customer or user without the manufacturer's prior written approval. 29 CFR 1910.178 (a)(4).)
5. Evaluate control methods to assure that guards do not limit visibility, present pinch-point hazards, or add any additional hazard to forklift operators or other employees on the site.
6. Train employees to operate forklifts safely as required by paragraph (l) of 29 CFR 1910.178, including recognizing the hazards of the workplace created by the use of the vehicles.
7. Refer to the Powered Industrial Trucks (Forklift) eTool as a resource for information to keep employees who operate forklifts safe on the job. The eTool provides a review of potential hazards and a summary of key OSHA requirements and industry recommended practices for forklift operations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date By Which Violation Must be Abated:**

**07/26/2016**

**Proposed Penalty:**

**\$4500.00**



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

29 CFR 1910.23(c)(1): Open-sided floors and/or platforms four feet or more above adjacent floor or ground level were not guarded with standard railings (or equivalent) and toeboards: Note: Toeboards are only required when persons can pass, there is moving equipment or there is equipment with which falling materials could create a hazard:

- a) 35 Thousand Oaks Blvd - Employees working on the batching platform opened a swinging access gate multiple times a day and were exposed to a fall hazard of approximately 6 feet from the platform to the ground below, on or about December 10, 2015.

Abatement certification required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	07/26/2016
Proposed Penalty:	\$4500.00





**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc

**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

29 CFR 1910.106(e)(6)(ii): Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), was dispensed into containers unless the nozzle and container were not electrically interconnected:

- a) 35 Thousand Oaks Blvd - Employees transferred 70% isopropyl alcohol flammable liquids from 55 gallon drums to safety cans using a plastic siphon pump. The safety can was not bonded to the drum, thereby exposing employees to fire hazards or explosions on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date By Which Violation Must be Abated:**

**07/05/2016**

**Proposed Penalty:**

**\$6300.00**



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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The alleged violations below (4a and 4b) have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.157(g)(1): An educational program was not provided for all employees to familiarize them with the general principles of fire extinguisher use and the hazards involved with incipient stage fire fighting:

- a) 35 Thousand Oaks Blvd - The employer did not provide training to employees on the general principles, use and hazards involved with the use of fire extinguishers in the event of an incipient stage of a fire, thereby, exposing employees to burns on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

<b>Date By Which Violation Must be Abated:</b>	<b>07/26/2016</b>
<b>Proposed Penalty:</b>	<b>\$6300.00</b>

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:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

29 CFR 1910.157(g)(2): The educational program to familiarize employees with the general principles of fire extinguisher use and the hazards involved with incipient stage fire fighting was not provided to all employees upon initial employment, and at least annually thereafter:

- a) 35 Thousand Oaks Blvd - The employer did not provide training to designated employees on the general principles, use and hazards involved with the use of fire fighting equipment in the event of a fire, thereby, exposing employees to burns on or about December 10, 2015.

Abatement certification required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date By Which Violation Must be Abated:**

**07/26/2016**



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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The alleged violations below (5a and 5b) have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.1200(e)(1): Employer did not develop and implement a written hazard communication program included the requirements outlined in 29 CFR 1910.1200(e)(1)(i) and (e)(1)(ii):

- a) 35 Thousand Oaks Blvd - The employer has not developed or implemented a written hazard communication program for chemicals including but not limited to: 96% ethyl alcohol or 70% isopropyl alcohol, that describes specific exposure limits, flammability, specific target organ effects, carcinogen warning and/or physical hazards. This violation occurred on or about December 10, 2015 and at times prior thereto, when employees in the facility were required to handle hazardous chemicals before a written hazard communication program had been developed and implemented.

Abatement certification required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**07/05/2016**  
**\$5400.00**



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc

**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

29 CFR 1910.1200(h)(1): Employees were not provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard that the employees had not been previously trained about was introduced into their work area:

- a) 35 Thousand Oaks Blvd - Employees were not provided SDS training, categories of hazards such as flammability, carcinogenicity, appropriate work practices, emergency procedures, proper personal protective equipment and other physical or health hazards regarding chemicals including but not limited to: 70% Isopropyl alcohol, 96% ethyl alcohol (SDA 40B), 99% Isopropyl alcohol during batching, transferring, processing, storing and shipping operations on or about December 10, 2015.

Abatement certification required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

Abatement actions shall ensure that all employees are informed and trained in accordance with 1910.1200 -

1. Any operations in their work area where hazardous chemicals are present.
2. The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and safety data sheets required by this section.
3. Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.).
4. The physical, health, simple asphyxiation, combustible dust, and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area.

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:** Phytogenx, Inc

**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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5. The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used.
6. The details of the hazard communication program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by their employer; the safety data sheet, including the order of information and how employees can obtain and use the appropriate hazard information.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date By Which Violation Must be Abated:**

**07/26/2016**



**Citation and Notification of Penalty**

**Company Name:** Phytogenx, Inc

**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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

29 CFR 1910.106(e)(2)(ii)(b)(2): More than 120 gallons of Category 2, 3, or 4 flammable or combustible liquids in containers were located outside of inside storage room(s) or storage cabinet(s):

- a) 35 Thousand Oaks Blvd - Approximately 300 gallons of 70% Isopropyl alcohol was stored in racking H2A, H3A and H4A creating a workplace fire hazard on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

07/26/2016

Proposed Penalty:

\$63000.00

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:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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The alleged violations below (2a and 2b) have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

**Citation 2, Item 2 a Type of Violation: **Willful****

29 CFR 1910.106(e)(2)(iii): Emergency drainage or other means were not provided to control spills in areas where flammable or combustible liquids were being transferred from one tank, or container to another:

- a) Chemical Storage area - The employer did not provide equipment to capture a leak, spill or overflow of flammable liquids to ensure that the material would stay contained in the area the liquid was being transferred from or to direct approximately 300 gallons of flammable liquids such as 70% Isopropyl Alcohol to safe locations when transferring flammable liquids from various size containers to drums, jars, vials or other containers throughout multiple sections of the storage area thereby, exposing employees to fire and explosion hazards on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

<b>Date By Which Violation Must be Abated:</b>	<b>07/26/2016</b>
<b>Proposed Penalty:</b>	<b>\$63000.00</b>

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:** Phytogenx, Inc

**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

**Citation 2 Item 2 b Type of Violation: **Willful****

29 CFR 1910.106(e)(3)(iv)(a): Emergency drainage systems were not provided to direct flammable liquid leakage and fire protection water to a safe location. This may require curbs, scuppers, or special drainage systems to control the spread of fire:

- a) Chemical Storage area - The employer did not ensure that emergency drainage systems were in place to direct approximately 500 gallons of flammable liquids such as 70% Isopropyl Alcohol or 96% Ethyl Alcohol (SDA40) to safe locations when transferring flammable liquids from various size containers to drums, jars, vials or other containers throughout multiple sections of the storage area thereby, exposing employees to fire and explosion hazards on or about December 10, 2015.
- b) Batching area - The employer did not ensure that emergency drainage systems were placed to direct approximately 600-900 Kg of flammable products to safe locations when storing or transferring highly flammable liquids from drums to kettles or other containers containers, thereby exposing employees to fire and explosion hazards on or about December 10, 2015.
- c) Production lines - The employer did not ensure that emergency drainage systems were placed to direct flammable liquids away from active work production thereby, exposing employees to fire and explosion hazards on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

**Date By Which Violation Must be Abated:**

**07/26/2016**

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:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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**Citation 2 Item 3** Type of Violation: **Willful**

29 CFR 1910.106(e)(3)(iii): "Chemical processes." Areas where unstable liquids were handled or small scale unit chemical processes were carried on were not separated from the remainder of the plant by a fire wall of 2-hour minimum fire resistance rating;

- a) Production Room - The company did not ensure that the processing and filling of approximately 600-900 Kg of 96% ethyl alcohol was separated from the rest of plant by a two hour minimum rated fire resistance wall, thereby, exposing employees to fire and explosion hazards on or before December 10, 2015.
- b) Batching Room - The company did not ensure that the batching of approximately 600-900 kilograms of 96% ethyl alcohol in vat B-2 was separated from the rest of plant by a two hour minimum rated fire resistance wall, thereby exposing employees to fire and explosion hazards on or before December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	07/26/2016
Proposed Penalty:	\$63000.00

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:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543

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**Citation 2 Item 4** Type of Violation: **Willful**

29 CFR 1910.106(e)(7)(i)(a): All electrical wiring and equipment was not installed according to the requirements of Subpart S of this part.

- a) 35 Thousand Oaks Blvd - 4 headed filling machine (AF5) was used to process highly flammable waterless cleanser without eliminating multiple sources of ignition hazards, thereby exposing employees to fire or explosion hazards on or about December 10, 2015.

Abatement certification and documentation required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photographic or video evidence of abatement or other written records.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

07/26/2016  
\$63000.00

  
**Kevin Kilp**  
Area Director

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
43 Kline Village  
Harrisburg, PA 17104  
Phone: 717-782-3902 Fax: 717-782-3746



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Phytogenx, Inc  
**Inspection Site:** 35 Thousand Oaks Blvd, Morgantown, PA 19543  
**Issuance Date:** 06/08/2016

<b>Summary of Penalties for Inspection Number</b>	<b>1111632</b>
<b>Citation 1, Serious</b>	<b>\$27000.00</b>
<b>Citation 2, Willful</b>	<b>\$252000.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$279000.00</b>

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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. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment 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 one percent (1%). 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 (6%) 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.

  
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**Kevin Kilp**  
Area Director

6-8-2016  
Date