

U.S. Department of Labor Occupational Safety and Health Administration
639 Granite Street
Suite 114
Braintree, MA 02184



08/17/2021

Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC.

15 Highgate Road
Wayland, MA 01778

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (617) 565-6924.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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. If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,

James Mulligan
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
639 Granite Street
Suite 114
Braintree, MA 02184



Citation and Notification of Penalty

To: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc.,
and its successors, including, but not limited to,
Sterling Excavation, LLC

Inspection Number: 1516067
Inspection Date(s): 02/24/2021 - 08/16/2021
Issuance Date: 08/17/2021

15 Highgate Road
Wayland, MA 01778

Inspection Site:
190 High Street
Boston, MA 02110

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 by calling (617) 565-6924. 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 at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type "OSHA" in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. 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. 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 08/17/2021. The conference will be held by telephone or at the OSHA office located at 639 Granite Street, Suite 114, Braintree, MA 02184 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1516067

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC

Inspection Site: 190 High Street, Boston, MA 02110

Issuance Date: 08/17/2021

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, 639 Granite Street, Suite 114, Braintree, MA 02184.**

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.20(b)(2): The employer did not initiate and maintain programs which provided for frequent and regular inspections of the job site, materials and equipment to be made by a competent person(s).

Location: Worksites

Employees are being exposed to hazards associated with roadway excavation work where the employer does not inspect the jobsite to identify and eliminate hazards such as but not limited to; struck-by, caught between, public and construction vehicular traffic, and construction equipment.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00

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

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1516067
Inspection Date(s): 02/24/2021 - 08/16/2021
Issuance Date: 08/17/2021



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.200(g)(2): Traffic control signs and/or devices used for protection of construction workers did not conform to Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), 2009 Edition, December 2009 (including Revision 1 dated May 2012 and Revision 2 dated May 2012).

Location: Worksites

Employees are exposed to struck-by and caught between hazards from public vehicular traffic while working where signs and devices are not emplaced in accordance with Manual on Uniform Traffic Control Devices for Streets and Highways, 2009 Edition, December 2009 (including Revision 1 dated May 2012 and Revision 2 dated May 2012).

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.601(b)(14): All defects were not corrected before motor vehicle(s) were placed in service:

Location: Worksites

Employees are exposed to struck-by and caught between hazards while working where the dump truck has multiple defects such as but not limited to; inoperable lights, unsecured fire extinguisher and a disconnected dump body safety alarm.

To abate this violation, the employer must ensure that employees are not exposed to struck-by/caught between hazards. Pursuant to 29 CFR 1903.19, the employer must comply with conditions set forth in this standard

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$13,653.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1516067
Inspection Date(s): 02/24/2021 - 08/16/2021
Issuance Date: 08/17/2021



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.651(d): Employees exposed to public vehicular traffic were not provided with a warning vest or other suitable garments marked with or made of reflectorized or high-visibility material:

Location: Worksite located in front of 190 High Street Boston MA.

Employees are exposed to motor vehicle and equipment struck-by hazards while working where high visibility garments are not worn.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$13,653.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.651(g)(1)(i): Where oxygen deficiency (atmosphere containing less than 19.5 percent oxygen) or a hazardous atmosphere existed or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances were stored nearby, the atmospheres in the excavation were not tested before employees entered excavations greater than 4 feet (1.22m) in depth:

Location: Worksites

Employees are exposed to potentially hazardous sewer gases such as methane, hydrogen sulfide and carbon monoxide, and natural gas while working where atmospheric testing is not being performed inside the excavation.

To abate this violation, the employer must ensure that employees are not exposed to atmospheric hazards and oxygen deficient environments. Pursuant to 29 CFR 1903.19 the employer shall test trenches and excavations prior to employees entering the trench.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1516067
Inspection Date(s): 02/24/2021 - 08/16/2021
Issuance Date: 08/17/2021



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.651(g)(2)(i): Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, was not readily available where hazardous atmospheric conditions existed or could reasonably be expected to develop during work in an excavation.

Location: Worksites

Employees are exposed potentially hazardous atmospheric conditions without the proper emergency rescue equipment to facilitate a safe extraction from the excavation should an employee become incapacitated.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00

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

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1516067
Inspection Date(s): 02/24/2021 - 08/16/2021
Issuance Date: 08/17/2021



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.651(j)(1): Adequate protection was not provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face:

Location: Worksites

Employees are exposed to struck-by hazards while working in excavations where the employer does not provide adequate protection from loose rock or soil that could pose a hazard by falling or rolling from an excavation face.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.652(a)(2): Protective systems did not have the capacity to resist without failure all loads that were intended or could reasonably be expected to be applied or transmitted to the system.

Location: Worksites

Employees are exposed to trench collapse while working in excavations, with straight cut earthen walls, where the hydraulic shoring protective systems do not have the capacity to resist without failure all loads that are intended or could reasonably be expected to be applied to them.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

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

29 CFR 1926.652(c)(2)(i): Design of support systems, shield systems, or other protective systems that were drawn from manufacturer's tabulated data were not in accordance with all specifications, recommendations, and limitations issued or made by the manufacturer:

Location: Worksites

Employees are exposed to excavation cave-in hazards while working where the employer is not installing the protective system in accordance with all specifications, recommendations, and limitations issued or made by the manufacturer.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must comply with all specifications, recommendations, and limitations issued or made by the manufacturer or comply with Subpart P Appendix D.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

August 25, 2021

Proposed Penalty:

\$13,653.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.652(c)(2)(ii): Deviations from the specifications, recommendations and limitations issued and made by the manufacturer were made without with the specific written approval of the manufacturer:

Location: Worksites

Employees are exposed to cave in hazards while working in excavations where the protection system deviate from the specifications, recommendations and limitations issued and made by the manufacturer and are made without with the specific written approval of the manufacturer.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must comply with all specifications, recommendations, and limitations issued or made by the manufacturer or comply with Subpart P Appendix D.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$0.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.652(c)(2)(iii): Manufacturer's specifications, recommendations, and limitations, and manufacturer's approval to deviate from the specifications, recommendations, and limitations were not in written form at the jobsite during construction of the protective system:

Location: Worksites

The excavations protective systems design deviate from the manufacturer's specifications and the changes are not in written form at the jobsites during construction and installation of the protective systems.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must comply with all specifications, recommendations, and limitations issued or made by the manufacturer or comply with Subpart P Appendix D.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$0.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

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

29 CFR 1926.652(e)(1)(ii): Support systems were not installed and removed in a manner that protected employees from cave-ins, structural collapses, or from being struck by members of the support system:

Location: Worksites

Employees are exposed to cave-in hazards while working in excavations where the support systems are not installed and removed in a manner that protects employees from cave-ins, structural collapses, or from being struck by members of the support system.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must comply with all specifications, recommendations, and limitations issued or made by the manufacturer or comply with Subpart P Appendix D.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$13,653.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.652(e)(2)(i): Excavation of material to a level no greater than 2 feet (.61m) below the bottom of the members of a support system was permitted where the system was not designed to resist the forces calculated for the full depth of the trench:

Location: Worksites

Employees are exposed to cave-in hazards while working where the excavation of material is greater than two feet below the bottom of a trench wall support system not designed to resist the forces calculated for the full depth of the trench.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must comply with all specifications, recommendations, and limitations issued or made by the manufacturer or comply with Subpart P, Appendix D.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$13,653.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.1053(b)(1): Where (a) portable ladder(s) was/were used for access to an upper level landing surface and the ladder's length did not allow the ladder side rails to extend at least 3 feet (0.9 m) above the upper landing surface being accessed, the ladder was not secured at its top to a rigid support that would not deflect, and/or a grasping device was not provided to assist employees in mounting and dismounting the ladder:

Location: Worksites

Employees are exposed to fall hazards while using a ladder that does not extend at least 3 feet above street level surface.

To abate this violation, the employer must ensure that employees are not exposed to cave-in hazards. Pursuant to 29 CFR 1903.19, the employer must ensure that ladders used to access upper landing surfaces extend at least 3 feet above.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$13,653.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksites

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where Jordy Alexander Castaneda Romero was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$136,532.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

Citation 2 Item 2 Type of Violation: **Willful - Serious**

29 CFR 1926.21(b)(2):The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksite

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where Juan Carlos Figueroa Gutierrez was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$136,532.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksite

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where employee number three was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$136,532.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksite

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where employee number four was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$136,532.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

Citation 2 Item 5 Type of Violation: **Willful - Serious**

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksite

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where employee number five was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$136,532.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

Citation 2 Item 6 Type of Violation: **Willful - Serious**

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Location: Worksite

Employees are not trained to recognize and avoid hazards associated with roadway work and excavations such as struck-by, caught between, asphyxia and other hazards as required by the standard and demonstrated on or about February 23, 2021 to February 24, 2021, where employee number six was not instructed on and protected from such hazards at the worksite in front of 190 High Street, Boston, MA.

To abate this violation, the employer must ensure that employees are trained to recognize and avoid hazards to protect employees. Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps to instruct each employee in the recognition and avoidance of unsafe conditions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 25, 2021
Proposed Penalty:	\$136,532.00

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: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

Citation 2 Item 7 Type of Violation: **Willful - Serious**

29 CFR 1926.652(a)(1): Each employee in an excavation was not protected from cave-ins by an adequate protective system designed in accordance with 29 CFR 1926.652 (b) or (c).

Location: Worksites

Employees are being exposed to struck-by, caught between, asphyxia and other hazards associated with excavations while working in a nine foot, two inch deep trench with straight cut earthen walls, in type "C" soil by not providing adequate protective systems designed in accordance with 29 CFR 1926.652 (b) or (c).

Pursuant to 29 C.F.R. 1903.19, the employer must submit documents describing the steps it has taken to ensure compliance including, but not limited to, program improvements, job hazard analysis, written plans, site inspections, training and other appropriate steps.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$136,532.00



Citation and Notification of Penalty

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110

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

29 CFR 1926.651(i)(3): Sidewalks, pavements, or appurtenant structures had been undermined and a support system or another method was not provided to protect employees from the possible collapse of such structures:

Location: Worksites

Employees are exposed to struck-by and caught between hazards while working in a 9 foot 2 inch excavation where the pavement has been undermined.

Atlantic Coast Utilities, LLC was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1926.651(I)(3), which was contained in OSHA inspection number 1144134 citation number one, item number one and was affirmed as a final order on October 17, 2016, with respect to a workplace located at 201 West Brookline Street Boston MA. 02116.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

August 25, 2021
\$136,532.00

James Mulligan
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
639 Granite Street
Suite 114
Braintree, MA 02184



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: Atlantic Coast Utilities, LLC / Advanced Utilities, Inc., and its successors, including, but not limited to, Sterling Excavation, LLC
Inspection Site: 190 High Street, Boston, MA 02110
Issuance Date: 08/17/2021

Summary of Penalties for Inspection Number: 1516067

Citation 1 Item 1, Serious	\$13,653.00
Citation 1 Item 2, Serious	\$13,653.00
Citation 1 Item 3, Serious	\$13,653.00
Citation 1 Item 4, Serious	\$13,653.00
Citation 1 Item 5, Serious	\$13,653.00
Citation 1 Item 6, Serious	\$13,653.00
Citation 1 Item 7, Serious	\$13,653.00
Citation 1 Item 8, Serious	\$13,653.00
Citation 1 Item 9a, Serious	\$13,653.00
Citation 1 Item 9b, Serious	\$0.00
Citation 1 Item 9c, Serious	\$0.00
Citation 1 Item 10a, Serious	\$13,653.00
Citation 1 Item 10b, Serious	\$0.00
Citation 1 Item 11, Serious	\$13,653.00
Citation 1 Item 12, Serious	\$13,653.00
Citation 2 Item 1, Willful - Serious	\$136,532.00
Citation 2 Item 2, Willful - Serious	\$136,532.00
Citation 2 Item 3, Willful - Serious	\$136,532.00
Citation 2 Item 4, Willful - Serious	\$136,532.00
Citation 2 Item 5, Willful - Serious	\$136,532.00
Citation 2 Item 6, Willful - Serious	\$136,532.00
Citation 2 Item 7, Willful - Serious	\$136,532.00
Citation 3 Item 1, Repeat - Serious	\$136,532.00

TOTAL PROPOSED PENALTIES: \$1,256,092.00

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. You can also make your payment

electronically at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type “**OSHA**” in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. 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 two 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.

James Mulligan
Area Director

Date