

U.S. Department of Labor

Occupational Safety and Health Administration
1057 Broad Street
Bridgeport, CT 06604
Phone: (203)579-5581 FAX: (203)579-5516

Citation and Notification of Penalty

To:
The Berlin Steel Construction Company
and its successors
76 Depot Road, PO Box 428
Kensington, CT 06037

Inspection Number: 314295627
Inspection Date(s): 04/22/2010-08/02/2010
Issuance Date: 08/03/2010

Inspection Site:
1349 River Road
Middletown, CT 06457

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted

to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

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

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

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

Notification of Corrective Action - For each violation which you do not contest, you must notify the Area Director of the Bridgeport OSHA Area Office, by letter, within 10 calendar days after each abatement date, that you have taken appropriate corrective action within the time frame set forth on this Citation. Where the citation indicates that *abatement certification* is necessary, only the abatement method and date when abatement occurred are required. Where the citation indicates that *abatement documentation* is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, etc., verifying that abatement has occurred is required. The abatement 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.

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, but not sooner than 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 08/03/2010. The conference will be held at the OSHA office located at 1057 Broad Street, Bridgeport, CT, 06604 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Citation and Notification of Penalty

Company Name: The Berlin Steel Construction Company
Inspection Site: 1349 River Road, Middletown, CT 06457

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

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: 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 in that employees electrical hazards when working around a 500 ton hydraulic crane during a lightening storm:

Location: Jobsite, west end of power generation building, 1349 River Road, Middletown, CT

Employees were exposed to electrocution hazards while performing steel dismantling activities during an electrical storm. The work included but was not limited to rigging operations involving the use of a hydraulic crane when removing large sections of a steel ventilation duct line. The work was being conducted during an electrical storm in which cloud to ground lightening was actively occurring on the east side of the site.

One feasible and acceptable method to correct this hazard would be to follow the recommendations from the National Lightening Safety Institute.

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

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

Citation and Notification of Penalty

Company Name: The Berlin Steel Construction Company
Inspection Site: 1349 River Road, Middletown, CT 06457

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

29 CFR 1926.20(b)(2): The employer did not initiate and maintain a safety program which provides for frequent and regular inspections of jobsites, materials, and equipment to be made by a competent person (i.e., a person who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has the authority to take prompt corrective measures to eliminate them):

Location: Jobsite, 1349 River Road, Middletown CT

The employer failed to provide a competent person who was able to recognize hazards associated with performing dismantling operations on the roof of a building during an electrical storm.

Abatement Note: A "competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and which has authorization to take prompt corrective measures to eliminate them.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	08/09/2010
Proposed Penalty:	\$ 7000.00

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

Citation and Notification of Penalty

Company Name: The Berlin Steel Construction Company
Inspection Site: 1349 River Road, Middletown, CT 06457

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe condition(s) and the regulation(s) applicable to his work environment to control or eliminate any hazard(s) or other exposure to illness or injury:

Location: Jobsite, 1349 River Road, Middletown CT

Employees were not trained in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment as required. The employer failed to instruct each employee in the recognition and avoidance of unsafe conditions relating to working on steel structures with the assistance of a large hydraulic crane during an electrical storm.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 08/09/2010
Proposed Penalty: \$ 7000.00

Area Director Robert W. Kowalski

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