

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
310 W. Wisconsin Avenue  
Room 1180  
Milwaukee, WI 53203  
Phone: 414-297-3315 Fax: 414-297-4299



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## Citation and Notification of Penalty

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**To:**  
E.R. Wagner Manufacturing Company  
and its successors  
4611 N. 32nd Street  
Milwaukee, WI 53209

**Inspection Number:** 934023  
**Inspection Date(s):** 08/22/2013 - 02/04/2014  
**Issuance Date:** 02/20/2014

**Inspection Site:**  
4611 N. 32nd Street  
Milwaukee, WI 53209

*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.*

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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 \$50,000 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 02/20/2014. The conference will be held by telephone or at the OSHA office located at 310 W.

Wisconsin Avenue, Room 1180, Milwaukee, WI 53203 on \_\_\_\_\_ at

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 934023**

Company Name: E.R. Wagner Manufacturing Company  
Inspection Site: 4611 N. 32nd Street, Milwaukee, WI 53209  
Issuance Date: 02/20/2014

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, 310 W. Wisconsin Avenue, Room 1180, Milwaukee, WI 53203**

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:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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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 1 a** Type of Violation: **Serious**

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

- (a) In the Tubular Building, the employer did not ensure employees who are performing setup on equipment such as but not limited to the Bliss #1821 (Auto Pinion Cell #1) and the Bliss #1574 (Auto Pinion Cell #2) utilized the lockout/tagout procedures to deenergize the equipment prior to changing dies.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$7000.00

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

**Inspection Number:** 934023  
**Inspection Date(s):** 08/22/2013 - 02/04/2014  
**Issuance Date:** 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.217(d)(9): Protective measures for die setting activities, as described in 29 CFR 1910.217(d)(9)(i)-(v), were not met.

(a) The employer did not ensure employees who performed die changes and/or setup activities on the mechanical power presses (e.g. Bliss #1821 and #1574) were protected from crushing injuries by measures such as but not limited to die setting procedures and safety blocks.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:

03/18/2014

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.147(c)(6)(ii): The periodic inspection certification of energy control procedures did not contain the required documentation on identification of the machine or equipment, inspection date, employees included, and the person performing the inspection:

(a) The employer did not document and certify that energy control procedures were inspected at least annually to ensure compliance with the standard was accomplished and skill proficiency with lockout was maintained when performing maintenance and servicing on equipment such as but not limited to thimble machines and mechanical power presses.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated: 03/18/2014  
Proposed Penalty: \$3000.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.147(c)(7)(i)(A): Authorized employee(s) did not receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control.

(a) Employees performing activities requiring energy control (e.g. die setters, setup, and maintenance) were not provided adequate training at the authorized level on the energy control program and equipment-specific procedures.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$5000.00

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

**Inspection Number:** 934023  
**Inspection Date(s):** 08/22/2013 - 02/04/2014  
**Issuance Date:** 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.212(a)(1): Machine guarding was not provided to protect operator(s) and other employees from hazard(s) created by pinch points:

(a) In the Tubular Building, the employer did not ensure employees were protected from amputation hazards on the Multi-Slide #1. Employees would walk behind the light curtain to perform duties such as but not limited to check lubrication levels and/or lubricate parts during operation, which involved reaching over and around a rotating cam.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:  
Proposed Penalty:

03/04/2014  
\$7000.00

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

**Inspection Number:** 934023  
**Inspection Date(s):** 08/22/2013 - 02/04/2014  
**Issuance Date:** 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.212(a)(3)(ii): Point(s) of operation of machinery were not guarded to prevent employee(s) from having any part of their body in the danger zone(s) during operating cycle(s):

(a) In the Tubular Building, the employer did not ensure the Thimble #502 press had point of operation guarding in place to protect the operator from amputation hazards when inspecting parts.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:  
Proposed Penalty:

03/11/2014  
\$5000.00



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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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 6 a** Type of Violation: **Serious**

29 CFR 1910.217(c)(1)(i): The employer did not provide and ensure the usage of point of operation guards or properly applied point of operation devices on every operation performed on mechanical power press(es).

- (a) In the Tubular Building at the Auto Pinion Cell #2, the barrier guard for the Bliss #1574 mechanical power press did not extend over the front side of the machine to prevent body parts from entering the point of operation.
- (b) In the Tubular Building at the Auto Pinion Cell #1, the barrier guard for the Bliss #1821 mechanical power press did not fully enclose the front side of the point of operation to prevent body parts from entering.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated: 03/11/2014  
Proposed Penalty: \$5000.00



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.217(c)(2)(i)(d): Point of operation guard(s) on mechanical power press(es) did not utilize fasteners not readily removable by the operator, so as to create minimize the possibility of misuse or removal of essential parts:

- (a) In the Tubular Building at the Auto Pinion Cell #1, the barrier guard for the Bliss #1821 mechanical power press was not secured to the machine and was easily removable by a swinging hinge.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated: 03/11/2014

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

29 CFR 1910.219(c)(2)(i): All exposed part(s) of horizontal shafting seven (7) feet or less from floor or working platform were not protected by stationary casing(s) enclosing shafting completely or by trough(s) enclosing sides and top or sides and bottom of shafting:

- (a) In the Tubular Building, the employer did not ensure that the rotating shaft on the Modern tube cutter discharge conveyor was guarded to prevent entanglement hazards.

Date By Which Violation Must be Abated: Corrected During Inspection  
Proposed Penalty: \$4000.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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

29 CFR 1910.212(a)(1): Machine guarding was not provided to protect operator(s) and other employees from hazard(s) created by pinch points and rotating parts.

(a) In the Tubular Building, the employer did not ensure employees were protected from amputation hazards on the Multi-Slide #4. Employees would reach over and around the rotating cam to check lubrication levels and/or apply lubrication to the machine and get within 12 inches of pinch points.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated: 03/25/2014  
Proposed Penalty: \$70000.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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Citation 3 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1910.178(a)(6): The employer did not ensure that all nameplates or markings were not maintained in a legible condition:

- (a) The employer did not ensure the nameplate on the TCM-9 powered industrial truck was legible in that the information was worn away.

*Certification, with date and method of abatement required.*

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$0.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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**Citation 3 Item 2** Type of Violation: **Other-than-Serious**

29 CFR 1910.178(l)(6): The certification did not include the name of the operator, the date of the training, the date of the evaluation, and the identity of the person(s) performing the training or evaluation:

- (a) The powered industrial truck training records did not include the date of the training and the date of the evaluation.

*Certification, with date and method of abatement required.*

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$0.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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Citation 3 Item 3 Type of Violation: **Other-than-Serious**

29 CFR 1910.178(q)(7): Industrial trucks were not examined before being placed in service:

(a) The employer did not ensure the powered industrial trucks, such as but not limited to the TCM-9 and Linde-36, are inspected at least visually prior to being placed into service each day.

*Certification, with date and method of abatement required.*

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$0.00



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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**Citation 3 Item 4** Type of Violation: **Other-than-Serious**

29 CFR 1910.184(d): Sling(s) and fastenings were not inspected each day or during use and were not removed from service when damaged or defective:

- (a) The employer did not ensure slings, such as but not limited to the ones used on the Multi-Slide #1 and #4 were inspected for defects prior to use each day.
- (b) In the Tubular Building, the hook attachment on the hoist used to setup Multi-Slide #1 was missing a safety latch and remained in service.
- (c) In the Tubular Building, the hook attachment on the hoist used to setup Multi-Slide #4 was missing a safety latch and remained in service.

*Certification, with date and method of abatement required.*

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated:	03/04/2014
Proposed Penalty:	\$0.00

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

Inspection Number: 934023  
Inspection Date(s): 08/22/2013 - 02/04/2014  
Issuance Date: 02/20/2014



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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**Citation 3 Item 5** Type of Violation: **Other-than-Serious**

29 CFR 1910.1030(g)(2)(ii)(A): The employer did not ensure that training was provided to employees with occupational exposure at the time of initial assignment to tasks where occupational exposure might take place:

- (a) The employer did not ensure each employee who was designated as a first responder was provided initial training upon assignment of those duties.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

***Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.***

Date By Which Violation Must be Abated:	03/11/2014
Proposed Penalty:	\$0.00



**Citation and Notification of Penalty**

**Company Name:** E.R. Wagner Manufacturing Company  
**Inspection Site:** 4611 N. 32nd Street, Milwaukee, WI 53209

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Citation 3 Item 6 Type of Violation: **Other-than-Serious**

29 CFR 1910.1030(g)(2)(ii)(B): The employer did not ensure that the training was provided to employees with occupational exposure at least annually:

- (a) The employer did not ensure each employee who was designated as a first responder was provided training at least annually after their initial assignment.

***ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM***

*Certification of abatement is required by 29 CFR Part 1903 and is to be submitted within (10) calendar days after the abatement date.*

Date By Which Violation Must be Abated:  
Proposed Penalty:

03/11/2014  
\$0.00

A handwritten signature in black ink, appearing to read "Christine Zortman".

Christine Zortman  
Area Director