

U.S. Department of Labor
Occupational Safety and Health Administration
950 22nd Street North
Suite 1050
Birmingham, AL 35203
Phone: (205)731-1534 FAX: (205)731-0504



Citation and Notification of Penalty

To:
Sears Roebuck & Co #2166
and its successors
3333 Beverly Road/ALL-338A
Hoffman Estates, IL 60179

Inspection Number: 315283812
Inspection Date(s): 03/30/2011-09/13/2011
Issuance Date: 09/28/2011

Inspection Site:
5901 University Drive NW
Huntsville, AL 35806

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 3 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 are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification **must** be sent by you within **10 calendar days** of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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 09/28/2011. The conference will be held at the OSHA office located at 950 22nd Street North, Suite 1050, Birmingham, AL, 35203 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

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

Company Name: Sears Roebuck & Co #2166
Inspection #: 315283812

NOTICE OF CORRECTIVE ACTION

CORRECTIVE ACTION TAKEN FOR EACH STANDARD VIOLATED SHOULD BE SUBMITTED TO THIS OFFICE ON OR BEFORE THE DATE BY WHICH VIOLATION(S) MUST BE ABATED AS INDICATED IN THE "CITATION AND NOTIFICATION OF PENALTY".

THIS INFORMATION MAY BE WRITTEN BELOW, ON THE REVERSE SIDE OR ON ATTACHED PAGES IF NECESSARY.

<u>CITATION NO.</u>	<u>ITEM NO.</u>	<u>CORRECTIVE ACTION TAKEN</u>	<u>DATE COMPLETED</u>
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I attest that the information contained in this document is accurate.

Signature

Typed or Printed Name



Citation and Notification of Penalty

Company Name: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

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

29 CFR 1910.36(b)(1): Building(s), structure(s), or the arrangement of the workplace designed for human occupancy were not provided with exits sufficient to permit the safe evacuation of occupants in case of fire or other emergency:

- (a) On or about 03/30/11 - Small Item Stockroom, only one exit was provided.

Abatement Documentation Required

Date By Which Violation Must be Abated: 10/05/2011
Proposed Penalty: \$ 7000.00

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

29 CFR 1910.37(b)(5): Each doorway or passage along an exit access that could be mistaken for an exit must be marked "Not An Exit" or similar designation or be identified by a sign indicating its actual use:

- (a) On or about 03/30/11 - Electronics Department, Recessed Area, doors were not marked "Not an Exit".

Date By Which Violation Must be Abated: 10/05/2011
Proposed Penalty: \$ 5500.00



Citation and Notification of Penalty

Company Name: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

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

29 CFR 1910.106(e)(9)(iii): Combustible waste material and residues were not stored in covered metal receptacles and disposed of daily:

- (a) On or about 03/30/2011 - Preventive Maintenance Technician (PMT) Repair Shop, used gasoline was not stored in closed containers and was not disposed of daily.

Date By Which Violation Must be Abated:	10/05/2011
Proposed Penalty:	\$ 5500.00



Citation and Notification of Penalty

Company Name: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

Citation 2 Item 1 Type of Violation: Repeat

29 CFR 1910.37(a)(3): Exit routes were not free and unobstructed:

- (a) On or about 03/30/2011 - Small Item Stockroom, employees did not have unobstructed access to designated exit routes due to large amounts of warehouse display and/or storage fixtures stored in 2 of 3 aisles, and directly outside the entrance opening to/from the Small Ticket Stockroom.
- (b) On or about 03/30/2011 - Big Ticket Stockroom, the exit door nearest the Preventive Maintenance Technician (PMT) repair shop entrance, employees did not have unobstructed access to a designated exit route due to store merchandise, up to and including a treadmill, a bicycle hanging on the outside end of the rack, 3 Craftsman 10 inch Mitre saws in boxes, a wheeled garment hanging cart and two large, thin boxes, one of which was strapped to the merchandise rack to prevent it from falling over.

Sears, Roebuck & Company was previously cited for a repeat violation of this occupational safety and health standard or its equivalent standard, 29 CFR 1910.37(a)(3) which was contained in OSHA inspection number 311286199, citation number 2, item number 1, and was affirmed as a final order on 10/09/2009, with respect to a workplace located at 100 Main Street, White Plains, NY 10601.

Sears, Roebuck & Company was previously cited for a repeat violation of this occupational safety and health standard or its equivalent standard, 29 CFR 1910.37(a)(3) which was contained in OSHA inspection number 309551372, citation number 2, item number 1a, and was affirmed as a final order on 01/23/2007, with respect to a workplace located at 50 Fox Run Road, Suite 74, Newington, NH 03801.

Abatement Documentation Required

Date By Which Violation Must be Abated:	10/05/2011
Proposed Penalty:	\$ 55000.00

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: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

Citation 2 Item 2 Type of Violation: Repeat

29 CFR 1910.37(b)(4): Where the direction of travel to the exit or exit discharged was not immediately apparent, signs were not posted along the exit access indicating the direction of travel to the nearest exit and exit discharge. Additionally, the line of sight to an exit was not clearly visible at all times:

- (a) On or about 03/30/11 - Big Ticket Stock Room, signs were not posted along the exit routes.
- (b) On or about 08/20/11 - Main Sales Floor, Ladies Clothing Department, an exit sign was blocked by a "Clearance" advertisement sign.
- (c) On or about 08/20/11 - Main Warehouse, signs were not posted along the exit route to indicate direction of travel.

Sears, Roebuck and Co. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 29 CFR, 1910.37(b)(4), which was contained in OSHA inspection number 312978000, citation number 1, item number 4, and was affirmed as a final order on 09/24/2010, with respect to a workplace located at 160 North Gulph Road, Ste 400, King of Prussia, PA.

Abatement Documentation Required

Date By Which Violation Must be Abated:	10/05/2011
Proposed Penalty:	\$ 27500.00

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: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

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

29 CFR 1910.176(b): Material stored in tiers was not stacked, blocked, interlocked or limited in height so that it was stable and secure against sliding and collapse:

- (a) On or about 03/30/2011 - Big Ticket Stockroom, Row Numbers 100-07-E-2 and 100-07-E-3, main support beams used to stack retail merchandise approximately 22 feet or three tiers high were damaged causing merchandise stored on the racks to be unstable and not secure. Additionally, boxes stored on the first aisle to the left were not stored in a way to prevent them from falling and striking employees working on the warehouse floor.

Sears Roebuck & Co was previously cited for a serious violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.176(b), which was contained in OSHA inspection number 309551372, citation number 1, item number 4, and was affirmed as a final order on 01/23/2007, with respect to a workplace located at 50 Fox Run Road, Suite 74, Newington, OH 03801.

Abatement Documentation Required

Date By Which Violation Must be Abated:	10/05/2011
Proposed Penalty:	\$ 27500.00

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

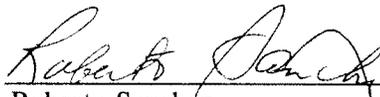
Company Name: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806

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

29 CFR 1910.1200(e)(1)(i): The written hazard communication program did not include a list of the hazardous chemicals known to be present using an identity that was referenced on the appropriate material safety data sheet:

- (a) On or about 03/30/2011 - Sears & Roebuck, Co. Store #2166, the written hazard communication program did not include a list of all hazardous chemicals present in the workplace.

Date By Which Violation Must be Abated:	10/18/2011
Proposed Penalty:	\$ 0.00



Roberto Sanchez
Area Director



U.S. Department of Labor
Occupational Safety and Health Administration
950 22nd Street North, Suite 1050
Birmingham, Alabama 35203
Phone: (205) 731-1534 FAX: (205)731-0504

INVOICE/ DEBT COLLECTION NOTICE

Company Name: Sears Roebuck & Co #2166
Inspection Site: 5901 University Drive NW, Huntsville, AL 35806
Issuance Date: 09/28/2011

Summary of Penalties for Inspection Number 315283812

Citation 1, Serious	= \$	18000.00
Citation 2, Repeat	= \$	110000.00
Citation 3, Other	= \$	0.00
TOTAL PROPOSED PENALTIES	= \$	128000.00

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.

OSHA does not agree to any restrictions or conditions 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 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 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.



Roberto Sanchez
Area Director

9/28/2011
Date

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Citation and Notification of Penalty.

If the hazards itemized on this citation(s) are not abated/corrected and a follow-up inspection is conducted, your establishment may receive a Failure to Abate Citation for the uncorrected hazards with subsequent additional monetary penalties of up to thirty (30) times the original penalty amount of the uncorrected hazards.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the Citation(s).

