

Virginia Department of Labor and Industry
Virginia Occupational Safety and Health (VOSH) Compliance

Interstate Corporate Center, Bldg. 6
6363 Center Drive, Suite 101
Norfolk, VA 23502
Phone: (757) 455-0891 Fax: (757) 455-0899



Citation and Notification of Penalty

To:
Lucas Tree Experts
and its successors
636 Riverside Street, P.O. Box 958

Inspection Number: 1226352
Inspection Date(s): 04/17/2017-UNKNOWN
Issuance Date: 10/12/2017

Portland, ME 04104

Inspection Site:
Greenlawn Memorial Gardens, 3920 Airline Blvd
Chesapeake, VA 23321

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.

Citation and Notification of Penalty. Described herein are alleged violations of Virginia's Occupational Safety and Health (VOSH) laws, standards and/or regulations. Any penalty proposed is based on the corresponding violation. In accordance with Virginia Code §40.1-49.4(b)(4), you must abate all alleged violations by the dates listed and pay the penalties proposed, unless, within 15 working days (excluding weekends and State and Federal holidays) from the date you receive this citation, you submit a written notice of contest to the Virginia Department of Labor and Industry Regional Office at the address listed above. Issuance of this citation does not constitute a finding by the Commissioner that you have violated the law, standard or regulation described unless you fail to file a written notice of contest or this citation is affirmed by a court of law.

Please read the enclosed booklet entitled *Employer Responsibilities and Courses of Action Following a VOSH Inspection* in conjunction with this citation to learn your rights and responsibilities.

Posting. Virginia law requires you to immediately post a copy of this Citation in a prominent place at or near the location of the violation(s), or if it is not practicable because of the nature of your operations to do so, in a place where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) have been abated, or for 3 working days (excluding weekends, State and Federal holidays), whichever is longer. **The penalty amounts may be marked out or covered up prior to posting. Please note that these penalty amounts are releasable by the Department in response to a Freedom of Information Act (FOIA) request.**

Informal Conference. You have the right to an informal conference with the appropriate VOSH Regional Safety or Health Director at which you may present evidence to support amending the citation, order of abatement or penalties proposed. An informal conference, which is normally held during the 15 working day contest period, is optional. If you wish to attend an informal conference, you must contact the appropriate VOSH Regional Safety or Health Director at the Regional Office listed above.

If you request an informal conference, you must notify your employees of the time and place. Be sure to bring to the conference any documentation of existing conditions as well as abatement steps taken thus far. If conditions warrant, this matter may be resolved amicably without the need for litigation, by way of an Informal Settlement Agreement.

Requesting an informal conference does not extend the 15 working day contest period.

Right to Contest. You have the right to contest this Citation. 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. This citation and the penalties proposed will become a final order of the Commissioner of Labor and Industry unless you notify VOSH in writing within 15 working days of receiving this citation that you contest the citation or any part thereof.

Penalty Payment. Penalties are due within 15 working days of receipt of this notification unless you contest. Make your check or money order payable to "Commonwealth of Virginia ". **Please indicate the Inspection Number on the check or money order.**

The Virginia Department of Labor and Industry 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 violations which you do not contest, you must promptly notify the appropriate VOSH Regional Safety or Health Director at the Regional Office listed above, by completing the enclosed Report on Correction of Violations form, and indicates that you have taken appropriate corrective action by the date(s) specified in this citation. The form must include abatement steps you have taken and the dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

Employment Discrimination Unlawful. Virginia Code §§40.1-51.2:1 and -51.2:2 prohibit discrimination against any employee who has filed a complaint or who has exercised any rights under the safety and health provisions of Title 40.1 of the Code of Virginia. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the VOSH Office of Whistleblower Protection at Suite 207, 600 East Main Street, Richmond, Virginia 23219.

Notice to Employees. The law gives an employee or his/her representative the opportunity to contest in writing any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Regional Office at the address shown above and postmarked within 15 working days (excluding weekends and State and Federal holidays) of the employer's receipt of this Citation.

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NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the Citation(s) issued 10/12/2017. The conference will be held at the VOSH office located at Interstate Corporate Center, Bldg. 6, 6363 Center Drive, Suite 101 Norfolk, VA 23502 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

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Inspection Number: 1226352
Inspection Date: 04/17/2017-
UNKNOWN
Issuance Date: 10/12/2017



Citation and Notification of Penalty

Company Name: Lucas Tree Experts

Inspection Site: Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321

Citation 1 Item 1

Type of Violation: **Serious**

1910.132(d)(1)(i): Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd, Chesapeake VA 23321.

An employee had ascended into a tree and was performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. The tree limb that was being cut extended within the minimal approach distance of the power line. Once the employee cut the limb, the wind had caught the tree limb causing it to come in contact with the power line causing the employee to be electrocuted. The employee was not utilizing or wearing personal protective equipment to protect the employee from the electrocution hazards.

The personal protective equipment hazard assessment conducted by the employer had identified electrical hazards, but had not selected or did it have each affected employee use the type of personal protective equipment that would be needed to protect an employee from the electrical shock / electrocution hazards.

Date by Which Violation Must Be Abated:

October 24, 2017

Proposed Penalty:

\$7000.00

Citation 1 Item 2

Type of Violation: **Serious**

1910.269(r)(1)(iv): Branches that are contacting exposed energized conductors or equipment or that are within the distances specified in Table R-5, Table R-6, Table R-7, and Table R-8 may be removed only through the use of insulating equipment.

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321.

Employees were ascending into trees and performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. The employees were cutting limbs that extended into within the minimal approach distance as specified in 1910.269 tables R-5, R-6, R-7, and R-8. The employees were not utilizing insulated equipment in the following instances:

a) On 04/13/2017 an employee ascended up into a tree to cut a limb that extended into and within the minimal approach distance of the power line. The employee used a wooden handled pole pruner with metal attachment fittings that was not approved to be used around electrical hazards. The pole pruners had warning stickers that stated Danger Electrical Hazard, Do not use on or near hot wires.

b) On 04/17/2017 an employee ascended up into a tree to cut a limb that extended into and within the minimal approach distance of the power line. The employee used a chain saw to make the cut on the limb.

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Citation and Notification of Penalty

Company Name: Lucas Tree Experts

Inspection Site: Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321

This exposed employees to electrical shock or electrocution hazards and their associated injuries.

Date by Which Violation Must Be Abated:

October 18, 2017

Proposed Penalty:

\$7000.00

Citation 1 Item 3

Type of Violation: **Serious**

1910.269(r)(1)(vi): Line-clearance tree-trimming work may not be performed when adverse weather conditions make the work hazardous in spite of the work practices required by this section. Each employee performing line-clearance tree trimming work in the aftermath of a storm or under similar emergency conditions shall be trained in the special hazards related to this type of work. Note to paragraph (r)(1)(vi): Thunderstorms in the immediate vicinity, high winds, snow storms, and ice storms are examples of adverse weather conditions that are presumed to make line-clearance tree trimming work too hazardous to perform safely.

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321.

An employee had ascended into a tree and was performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. Once the employee cut the limb, the wind had caught the tree limb causing it to come in contact with the power line causing the employee to be electrocuted. Wind speeds were measured up to 24 mph with wind gust being measured up to 32 mph.

Date by Which Violation Must Be Abated:

October 18, 2017

Proposed Penalty:

\$7000.00

Citation 1 Item 4

Type of Violation: **Serious**

1910.269(r)(8): Fall protection. Each employee shall be tied in with a climbing rope and safety saddle when the employee is working above the ground in a tree, unless he or she is ascending into the tree.

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321. An employee had ascended into a tree and was performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. The employee was cutting a tree limb at an elevation of about 20 feet above the ground and had not set and attached his climbing rope up into the tree. The climbing rope was attached to the employees belt on his fall protection device, but was hanging down to the ground. The employee was only secured into the tree by his position rope. This exposed the employee to fall from elevation hazards and their associated injuries.

Date by Which Violation Must Be Abated:

October 18, 2017

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Citation and Notification of Penalty

Company Name: Lucas Tree Experts

Inspection Site: Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321

Proposed Penalty:

\$6300.00

Citation 1 Item 5

Type of Violation: **Serious**

1910.1200(e)(1): Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, safety data sheets, and employee information and training will be met.

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321. Employees were performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. Employees were using various chemicals to include; deep woods off, gasoline, diesel fuel, hydraulic fluid, chain lube / bar oil, and other various lubricants and greases. Although a hazard communication program had been developed and implemented to include training, SDS and labeling, the employer was unable to provide a written program.

Date by Which Violation Must Be Abated:

December 01, 2017

Proposed Penalty:

\$2970.00

Citation 2 Item 1

Type of Violation: **Willful-Serious**

1910.269(r)(1)(iii): Line-clearance tree trimmers shall maintain the minimum approach distances from energized conductors given in Table R-5, Table R-6, Table R-7, and Table R-8.

Located at Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321. On 04/17/2017 an employee had ascended into a tree and was performing line clearance tree trimming operations on a 19,900 volt overhead high voltage power line. The tree limb that was being cut extended within the minimal approach distance to about 1 foot of the power line. Once the employee cut the limb, the wind had caught the tree limb causing it to come in contact with the power line which caused the employee to be electrocuted.

On 04/13/2017 the previous week, an employee ascended up into a tree at the same job site to cut a limb that extended into and within the minimal approach distance of the same 19,900 volt power line. The employee received a shock as it dropped after cutting the limb because it was within the minimal approach distance of that power line.

Date by Which Violation Must Be Abated:

October 18, 2017

Proposed Penalty:

\$70000.00

Virginia Department of Labor and Industry

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Citation and Notification of Penalty

Company Name: Lucas Tree Experts

Inspection Site: Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321

Inspection Number: 1226352

Inspection Date: 04/17/2017-
UNKNOWN

Issuance Date: 10/12/2017



Jeannie Buckingham
Regional Safety Director

Virginia Department of Labor and Industry
Virginia Occupational Safety and Health (VOSH) Enforcement
Interstate Corporate Center, Bldg. 6,
6363 Center Drive, Suite 101
Norfolk, VA 23502
Phone: (757) 455-0891 FAX: (757) 455-0899



INVOICE/DEBT COLLECTION NOTICE

Company Name: Lucas Tree Experts
Inspection Site: Greenlawn Memorial Gardens, 3920 Airline Blvd Chesapeake, VA 23321
Issuance Date: 10/12/2017
Inspection Number: 1226352

Summary of Proposed Penalties:

Citation 1 Item 1, Serious	7000.00
Citation 1 Item 2, Serious	7000.00
Citation 1 Item 3, Serious	7000.00
Citation 1 Item 4, Serious	6300.00
Citation 1 Item 5, Serious	2970.00
Citation 2 Item 1, Willful-Serious	70000.00
TOTAL PROPOSED PENALTIES:	100270.00

Pursuant to Virginia Code §40.1-49.4.A.4.(a), the Commissioner of the Department of Labor and Industry may assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, regulations, and standards. Interest charges are assessed at an annual rate in accordance with Virginia Code §2.2-4805.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with VOSH. **Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.**

A debt is past-due 30 calendar days after the final order date unless the employer makes a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it is deemed delinquent and referred to the Office of the Attorney General or other collection agency for collection. Administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please send payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219. You may use the enclosed self-addressed envelope. **Please make your check or money order payable to: "Commonwealth of Virginia". Please indicate the Inspection Number on the payment. Do not send payment to the Regional Office.**

Jeannie Buckingham

Date

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VOSH Regional Safety Director

Virginia Department of Labor and Industry
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REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION

Company Name:

Lucas Tree Experts
Greenlawn Memorial Gardens, 3920 Airline Blvd
Chesapeake, VA 23321

RETURN FORM TO:

Virginia Department of Labor and Industry
Interstate Corporate Center, Bldg. 6,
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Phone: (757) 455-0891 Fax: (757) 455-0899

Inspection Number: 1226352

Please provide the corrective action taken and date of completion by each numbered item as indicated on the attached form, along with adequate supporting documentation (e.g., copies of written programs (Safety, Lockout/Tagout, Hazard Communication, Respiratory Protection, Confined Spaces, etc.), drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results (such as air contaminants, noise monitoring, asbestos, lead, etc). For accuracy, please refer to the enclosed citations when completing this form.

Be sure to address all items on the citation, including any other-than-serious items. Failure to do so will delay documentation of your abatement efforts and may result in a follow-up inspection and could result in additional proposed penalties of \$1,000.00. Please be aware that Virginia Code §40.1-51.4:2 provides for a fine of not more than \$10,000.00, or imprisonment for not more than six (6) months, or both, for making false statements. Please type or print legibly.

Also, please be sure to sign and date this form.

Abatement Verification Statement:

Regarding the abatement actions on the following page(s), the undersigned certifies that:

1. All affected employees were promptly notified of all the hazards which were cited in this VOSH Citation.
2. For ALL items cited, a copy of the citation was posted at or near the location where each violation described in the citation occurred until each violation was abated or for a minimum of 3 working days (excluding weekends and State and Federal holidays), whichever is later; or
3. For all hand held or moveable equipment a warning tag or copy of the citation was attached to the equipment until the violation was abated, until the item was removed from service, or until such time as the item was no longer in the employer's control.
4. All items cited on the VOSH Citation were corrected and a copy of the Abatement Verification was made available for review to all affected employees by posting or other appropriate means on the date of the signing of this form.

NOTE: PLEASE MARK ABATEMENT VERIFICATION WITH MATCHING VIOLATIONS.

Employer Signature / Title

Date of Verification

Print Name and Title of Employee Representative



REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION

Citation #:			Item Number			Date Item Corrected	
1			1				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							
Citation #:			Item Number			Date Item Corrected	
1			2				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							
Citation #:			Item Number			Date Item Corrected	
1			3				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							

Citation #:			Item Number			Date Item Corrected	
1			4				

Corrective action taken:

List type of supporting documentation attached: _____

Citation #:			Item Number			Date Item Corrected	
1			5				

Corrective action taken:

List type of supporting documentation attached: _____

Citation #:			Item Number			Date Item Corrected	
2			1				

Corrective action taken:

List type of supporting documentation attached: _____