

U.S. Department of Labor

Occupational Safety and Health Administration
1033 La Posada
Suite 375
Austin, TX 78752
Phone: 512-374-0271 Fax: 512-374-0086



Citation and Notification of Penalty

To:

W. S. Steel Erection, L.L.C.
and its successors
P.O. Box 593497
San Antonio, TX 78258

Inspection Number: 1109160

Inspection Date(s): 12/01/2015 - 05/23/2016

Issuance Date: 05/31/2016

Inspection Site:

198267 FM 306
Canyon Lake, TX 78133

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. 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. 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 \$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 05/31/2016. The conference will be held by telephone or at the OSHA office located at 1033 La Posada, Suite 375, Austin, TX 78752 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1109160

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133
Issuance Date: 05/31/2016

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, 1033 La Posada, Suite 375, Austin, TX 78752**

Citation Number 1 and Item Number 1 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 2 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 3 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 4 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 5a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 5b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 6 was corrected on _____
By (Method of Abatement): _____

Citation Number 2 and Item Number 1 was corrected on _____
By (Method of Abatement): _____

Citation Number 2 and Item Number 1 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: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

OSH ACT of 1970 Section (5)(a)(1): The employer does not furnish to each of his employees employment and a place of employment which are free from the recognized hazards of falling from a personnel work platform which are causing or likely to cause death or serious physical harm to employees.

The employer exposes its employees to fall hazards. This violation was observed on or about December 1, 2015, at the site, where an employee was raised up to approximately 17 feet high by a Skytrak Model 8042 rough terrain forklift.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation, including describing the steps that it is taking to ensure that forklift operators remain in the cab and in direct line of sight of employees who are lifted on approved work platforms.

Among other methods, feasible and acceptable means of abatement would include to comply with the JLG , Skytrak Operators and Safety Manual, Model 8042, section 5, page 5-35, "When personnel are on platform, the operator must remain seated in cab with personnel in direct line of sight."

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$7000.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.20(b)(2): Such programs did not provide for frequent and regular inspections of the job sites, materials, and equipment to be made by competent persons designated by the employers:

The employer does not protect its employees from fall hazards by ensuring that a competent person conducts frequent and regular inspections at job sites. This violation occurred on or about December 1, 2015, at the site, where employees were exposed to fall hazards up to approximately 17 feet high.

- a) An employee was working from a platform approximately 17 feet high without fall protection that was supported by a Skytrak Model 8042 rough terrain forklift.
- b) Two employees were working from a Genie S-65 aerial lift without fall protection that was raised up to approximately 17 feet high.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that frequent and regular inspections are conducted at job sites by a competent person.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$7000.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.102(a)(1): Eye and face protective equipment were not used when machines or operations presented potential eye or face injury from physical, chemical, or radiation agents.

The employer does not ensure that employees are using eye protection. This violation was observed on or about December 1, 2015, at the site, where an employee was using a drill to install trim without the use of eye protection, exposing the employee to the hazard of being struck by flying objects.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that eye and face protection is utilized when machines or operations present potential eye or face injury.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$3300.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1910.178(l)(1)(i): The employer did not ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation specified in this paragraph (l):

The employer does ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely. This violation occurred on or about December 1, 2015, at the site, where an employee, who had not been trained in the safe operation of powered industrial trucks, was permitted to operate the Skytrak Model 8042 rough terrain forklift.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that powered industrial truck operators receive training that consists of a combination of formal instruction, practical training, and an evaluation of the operator's performance in the workplace.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$4400.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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 5 a Type of Violation: **Serious**

29 CFR 1926.451(c)(2)(v): Forklifts used to support scaffold platforms did not have the entire platform attached to the forks:

The employer does not protect its employees from fall hazards by ensuring that scaffold platforms are attached to the forks of forklifts. This violation was observed on or about December 1, 2015, at the site, where an employee was standing on a plywood platform that was elevated up to approximately 17 feet high by a Skytrak Model 8042 rough terrain forklift without the platform being attached to the forks, exposing the employee to a fall hazard.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that scaffold platforms used to support personnel are entirely attached to the forks.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$7000.00

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

Inspection Number: 1109160
Inspection Date(s): 12/01/2015 - 05/23/2016
Issuance Date: 05/31/2016



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.451(a)(6): Scaffolds were not designed by a qualified person:

The employer does not protect its employees from fall hazards by ensuring that scaffolds are designed by a qualified person. This violation was observed on or about December 1, 2015, at the site, where an employee was working from a plywood platform up to approximately 17 feet high that was supported by a Skytrak Model 8042 rough terrain forklift. The plywood platform was not designed by a qualified person.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that scaffold platforms are designed by a qualified person.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

06/01/2016



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.453(b)(2)(iv): Employee(s) working in an aerial lift were not standing firmly on the floor of the basket:

The employer does not protect its employees from fall hazards by ensuring that employees stand firmly on the floor of an elevated basket. This violation was observed on or about December 1, 2015, at the site, where an employee was performing trim work while elevated by a Genie S-65 aerial lift while standing on the mid rail and straddling the top rail of the basket.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that employees working in an aerial lift are standing firmly on the floor of the basket.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$7000.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.451(g)(1): Employees on scaffolds more than 10 feet (3.1 m) above a lower level were not protected from falling to that lower level by fall protection established in paragraphs (g)(1)(i)-(vii) of this section:

The employer does not ensure that employees working from scaffolds more than 10 feet above a lower level are protected from falls. This violation was observed on or about December 1, 2015, at the site, where an employee was installing trim while standing on a temporary elevated plywood platform up to approximately 17 feet high that was supported by a Skytrak Model 8042 rough terrain forklift without fall protection.

W.S. Steel Erection, LLC was previously cited for a similar violation of this Occupational Safety and Standard or its equivalent standard 29 CFR 1926.451(g)(1) which was contained in OSHA inspection number: 1070491, citation number 1, item number 1, and was affirmed as a final order on July 20, 2015, with respect to a workplace located at 233 Creekside Crossing, New Braunfels, TX 78130.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure employees exposed to fall hazards on scaffolding are protected by a guardrail system, safety net system, or personal fall arrest system.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$70000.00



Citation and Notification of Penalty

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133

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

29 CFR 1926.453(b)(2)(v): A body belt was not worn and/or a lanyard was not attached to the boom or basket when working from an aerial lift:

The employer does not protect its employees from fall hazards by ensuring that employees wear a body belt and/or lanyard when working from an aerial lift basket. This violation was observed on or about December 1, 2015, at the site, where two employees were cutting out a seam in the corner of the building while working from a Genie S-65 aerial lift without the use of fall protection.

W.S. Steel Erection, LLC was previously cited for a similar violation of this Occupational Safety and Standard or its equivalent standard 29 CFR 1926.453(b)(2)(v) which was contained in OSHA inspection number: 886203, citation number 1, item number 1a, and was affirmed as a final order on August 16, 2013, with respect to a workplace located at 1460 Precinct Line Road, Hurst , TX 76180.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure employees working from aerial lifts are protected by the use of a personal fall arrest system.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 06/01/2016
Proposed Penalty: \$70000.00

A handwritten signature in black ink that reads "R. Casey Perkins".

R. Casey Perkins, CSP
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1033 La Posada
Suite 375
Austin, TX 78752
Phone: 512-374-0271 Fax: 512-374-0086



INVOICE / DEBT COLLECTION NOTICE

Company Name: W. S. Steel Erection, L.L.C.
Inspection Site: 198267 FM 306, Canyon Lake, TX 78133
Issuance Date: 05/31/2016

Summary of Penalties for Inspection Number	1109160
Citation 1, Serious	\$35700.00
Citation 2, Repeat	\$140000.00
TOTAL PROPOSED PENALTIES	\$175700.00

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 on 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 \$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 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 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.



R. Casey Perkins, CSP
Area Director

5-31-16

Date