

# U.S. Department of Labor

Occupational Safety and Health Administration  
1648 Tri-Park Way  
Appleton, WI 54914  
Phone: (920)734-4521 FAX: (920)734-2661



## Citation and Notification of Penalty

**To:**  
United Contracting Inc  
and its successors  
W2322 Hwy 10  
Forest Junction, WI 54123

**Inspection Number:** 315289017  
**Inspection Date(s):** 06/28/2011 - 06/29/2011  
**Issuance Date:** 11/18/2011

**Inspection Site:**  
Hwy 41 Townline Rd. Overpass  
Fond du Lac, WI 54935

*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 violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Area Office in writing of the abatement steps you have taken and of their 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.

**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.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 11/18/2011. The conference will be held at the OSHA office located at 1648 Tri-Park Way, Appleton, WI, 54914 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives **of** employees have a right to attend an informal conference.



## **Citation and Notification of Penalty**

Company Name: United Contracting Inc  
Inspection Site: Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935

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

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to hazards of being struck by the forklift, falling loads or forklift components.

On and before 6/27/11, a Lull 844 Rough Terrain Forklift was **being** used to lift and hoist materials used to build the suspended scaffold which:

- A) Had been modified by welding a hydraulic hoist to the boom of the lift without written permission from the manufacturer.
- B) Had hydraulic leaks on the boom lift, boom extension, and chassis tilt cylinders and auxiliary hoist.
- C) Had Worn tires.

Among other methods, feasible means to correct the hazards created by the maintenance problems and unauthorized modifications is to follow the ANSI Standard for Rough Terrain Forklift Trucks, B56.6-2005 section 6.5, Operator Care of the Rough Terrain Forklift, and section 7 Maintenance and Rebuild Practices.

#### Abatement Certification and Documentation Required

Date By Which Violation Must be Abated:	12/21/2011
Proposed Penalty:	\$ 4200.00

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See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** United Contracting Inc  
**Inspection Site:** Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935

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**Citation 1 Item 2** 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 (1): Construction Reference: 1926.602(d).

On and before 6/27/11 the employer did not ensure that the employees were trained in forklift operations covered by this paragraph. Employees were thereby exposed to the hazards associated with forklift operations.

**Abatement Certification and Documentation Required**

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 4200.00

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

29 CFR 1926.451(d)(5)(ii): Suspension scaffold support devices such as cornice hooks, roof hooks, roof irons, parapet clamps, or similar devices were not supported by bearing blocks:

Employees of United Contracting were working from a scaffold supported by parapet hangers that were not blocked to prevent movement or distribute load.

**Abatement Certification and Documentation Required**

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 3000.00

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**Citation and Notification of Penalty**

Company Name: United Contracting Inc  
Inspection Site: Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935

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

29 CFR 1926.451(d)(5)(iii): Suspension scaffold support devices such as cornice hooks, roof hooks, roof irons, parapet clamps, or similar devices were not secured against movement by tiebacks installed at right angles to the face of the building or structure, or opposing angle tiebacks installed and secured to a structurally sound point of anchorage on the building or structure:

Employees of United Painting were working from a scaffold that was suspended from the bridge rail with parapet hooks that were not secured with tie backs to prevent displacement.

Abatement Certification and Documentation Required

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 3000.00

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

29CFR1926.451(f)(15)(ii): The employer did not ensure that a scaffold platform supporting a ladder was secured to prevent movement.

On or about 6/27/11 the ladder used to access the scaffold was set on a platform that was not secured to the structure to prevent displacement.

Abatement Certification and Documentation Required

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 4200.00

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See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

Company Name: United Contracting Inc  
Inspection Site: Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935

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

29 CFR 1926.502(d)(15): Anchorage(s) used for attachment of personal fall arrest equipment were not independent of **any** anchorage being used to support or suspend platforms and capable of supporting at least 5000 pounds per employee attached:

On and before 6/27/11 employees were using a self retracting lifeline that was connected to a parapet hanger that was also supporting the suspended scaffold.

Abatement Certification and Documentation Required

Date By Which Violation Must be Abated:	12/21/2011
Proposed Penalty:	\$ 4200.00

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See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

Company Name: United Contracting Inc  
Inspection Site: Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935

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

29 CFR 1926.451(a)(6): Scaffolds were not designed, constructed and loaded in accordance with design requirements:

The scaffold system was not designed by a qualified person and the scaffold system was not constructed and loaded in accordance with a qualified design.

Abatement Certification and **Documentation** Required

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 28000.00

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

1926.502(b)(1): Top edge height of top rails, or equivalent guardrail system members, were not 42" plus or minus 3" above the walking/working level:

On and before 06/27/11 employees of United Painting were exposed to fall hazards while working on the bridge deck, leaning over a 32" parapet/guardrail while suspending the scaffold system.

Abatement Certification and Documentation Required

Date By Which Violation Must be Abated: 12/21/2011  
Proposed Penalty: \$ 28000.00

  
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Frank J. Winingham  
Area Director

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
1648 Tri-Park Way  
Appleton, WI 54914  
Phone: (920)734-4521 FAX: (920)734-2661



## INVOICE/ DEBT COLLECTION NOTICE

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Company Name: United Contracting **Inc**  
**Inspection Site:** Hwy 41 Townline Rd. Overpass, Fond du Lac, WI 54935  
**Issuance Date:** 11/18/2011

**Summary** of Penalties for **Inspection Number 315289017**

Citation <b>1</b> , Serious	= \$	22800.00
Citation <b>2</b> , <b>Willful</b>	= \$	56000.00
<b>TOTAL PROPOSED PENALTIES</b>	= \$	78800.00

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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 **3%**. 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 second and subsequent demand letters sent in an attempt to collect the unpaid debt. Costs will not be assessed for first demand letters and payment default letters.

  
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FRANK J WININGHAM  
Area Director

11 18 2011  
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Date

# U.S. Department of Labor

Occupational Safety and Health Administration  
1648 Tri-Park Way  
Appleton, WI 54914  
Tel: (920) 734-4521 Fax: (920) 734-2661



Dear Employer:

Motor vehicle crashes are the leading cause of work-related fatalities in the United States. From 1980 to 1992 traffic-related motor vehicle crashes accounted for the deaths of 15,830 workers – or 20 percent of all fatal workplace injuries.

We would like you to join our efforts in reducing these fatalities. Training and educating employees on ways to work more safely around traffic and while operating motor vehicles will help. The more employees are aware of transportation safety, the more injuries and deaths we can prevent.

To assist you in these efforts we have attached a Fact Sheet from a publication by the National Institute for Occupational Safety and Health (NIOSH), "Preventing Worker Injuries and Deaths from Traffic-Related Motor Vehicle Crashes," which contains information you can share with your employees to help educate them on ways to prevent these types of accidents from occurring.

Also, the following websites are excellent sources of information on transportation safety which you can review and share with your employees as well:

U.S. Department of Transportation (DOT)

[www.dot.gov](http://www.dot.gov)

National Highway Traffic Safety Administration (NHTSA)

[www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)

Federal Motor Carrier Safety Administration (FMCSA)

[www.sharetheroadsafelv.org](http://www.sharetheroadsafelv.org)

Network of Employers for Traffic Safety (NETS)

[www.netsnational.org](http://www.netsnational.org)

National Safety Council (NSC)

[www.nsc.org](http://www.nsc.org)

We hope you will join with us in this voluntary initiative to increase public awareness of transportation safety.

Sincerely,

Occupational Safety and Health Administration  
Appleton Area Office