

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114
Phone: 402-553-0171 Fax: 402-551-1288



Citation and Notification of Penalty

To:

Midwest Farmers Coop
and its successors
PO Box 75
Martell, NE 68404

Inspection Number: 1106143

Inspection Date(s): 11/17/2015 - 11/17/2015

Issuance Date: 02/11/2016

Inspection Site:

17700 S. 1st Street
Martell, NE 68404

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 02/11/2016. The conference will be held by telephone or at the OSHA office located at 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1106143

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404
Issuance Date: 02/11/2016

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, 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114**

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: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.23(a)(2): Ladderway floor opening(s) or platform(s) were not guarded by a standard railing with standard toeboard(s) on all exposed sides (except at the entrance to opening) with passage through the railing either provided with a swinging gate or so offset that a person could walk directly into the opening:

The employer is failing to protect employees from fall hazards associated with working near an unguarded ladder access point to a boot pit. This was most recently evident during the inspection of the facility located at 17700 South 1st Street, Martell, NE; where the employer has employees performing maintenance on equipment such as legs and augers located next to an unguarded ladder access entry point into the east side receiving boot pit that is approximately 10 feet in depth.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	03/03/2016
Proposed Penalty:	\$6930.00



Citation and Notification of Penalty

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.24(h): Standard railings were not provided on the open sides of all exposed stairways and stair platforms:

The employer is failing to protect employees from fall hazards associated with failing to have complete standard railings on some sections and failing to have midrails installed on other sections as part of the standard guard railing along the open sides of a fixed industrial stair case. The most recent occurrence of this was evident during the inspection of the stairway located between the south side of the main building and bins numbered 1 & 2 of the facility located at 17700 South 1st Street, Martell, NE; where the employer has employees using the stairway with inadequate guard railing as means of access and egress performing maintenance on equipment such as legs and augers located in areas where there are exposed fall hazards.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	03/03/2016
Proposed Penalty:	\$6930.00



Citation and Notification of Penalty

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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 3 a Type of Violation: **Serious**

29 CFR 1910.272(j)(1): The employer did not develop and implement a written housekeeping program that established the frequency and the method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed areas:

The employer is failing to protect employees from explosion hazards associated with grain dust accumulations that exceed one eighth of an inch and within 35 feet of a priority housekeeping area. The most recent occurrence of this was found during the inspection of the facility located at 17700 South 1st Street, Martell, NE where the employer has employees operating and maintaining equipment inside a structure where the fugitive grain dust build up exceeds one eighth of an inch and has tested positive for explosivity with KST readings of 35.16 and 11.8. Instances include but are not limited to:

- i. Dust located throughout the building gathered on all horizontal surfaces greater than one eighth of an inch

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated: 03/03/2016
Proposed Penalty: \$4950.00



Citation and Notification of Penalty

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.272(j)(2)(ii): The employer did not immediately remove any fugitive grain dust accumulations whenever the exceeded one eighth of an inch (.32cm) at priority housekeeping areas, pursuant to the housekeeping program for feed mills:

The employer is failing to protect employees from explosion hazards associated with grain dust accumulations that exceed one eighth of an inch and within 35 feet of a priority housekeeping area. The most recent occurrence of this was found during the inspection of the facility located at 17700 South 1st Street, Martell, NE where the employer has employees operating and maintaining equipment inside a structure where the fugitive grain dust build up exceeds one eighth of an inch and has tested positive for explosivity with KST readings of 35.16 and 11.8. Instances include but are not limited to:

- i. Dust located on the steps and in the mixer leg boot pit greater than 3 inches.
- ii. Dust located on the ledges and around the bottom of the feed mill mixer greater than on inch.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated: 03/03/2016



Citation and Notification of Penalty

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.23(a)(5): Every pit and trapdoor floor opening, infrequently used, was not guarded by a floor opening cover of standard strength and construction. While the cover is not in place, the pit or trap opening was not constantly attended by someone or shall be protected on all exposed sides by removable standard railings.

The employer is failing to protect employees from fall hazards associated with working near open boot pits. This was most recently evident during the inspection of the facility located at 17700 South 1st Street, Martell, NE; where the employer has employees performing maintenance on equipment such as legs and augers located in and near the east side receiving boot pit. Instances include but are not limited to:

- i. The boot pit to the east side leg is approximately 10 feet deep on three sides without guard railing to protect employees from the fall hazards.
- ii. The trench from the east leg boot pit to the receiving pit has an area that is 37 inches wide by 76 inches long by 70 inches deep left uncovered and without guard railing to protect employees from the fall hazards.

Midwest Farmers Cooperative was previously cited for a violation of this occupational safety and health standard or its equivalent standard Midwest Farmers Cooperative, which was contained in OSHA inspection number 964263, citation number 1, item number 5 and was affirmed as a final order on 1/19/2015, with respect to a workplace located at 600 West 10th Street, Techumseh, NE 68450.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 03/03/2016
Proposed Penalty: \$13860.00

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: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.23(c)(1): Open-sided floors and/or platforms four feet or more above adjacent floor or ground level were not guarded with standard railings (or equivalent) and toeboards:

The employer is failing to protect employees from fall hazards associated with working on platforms greater than 4 above the lower working surface. This was most recently evident during the inspection of the facility located at 17700 South 1st Street, Martell, NE; where the employer has employees performing maintenance on equipment such as legs and augers located in areas where there are exposed fall hazards. Instances include but are not limited to:

- i. The overhead walkway from the stair way to the main building walks way.
- ii. The platform located over bins # 1, 2, &3A/3B.
- iii. The platform adjacent to the interior leg for bin number 3 is missing railing at the end and at the entry point.
- iv. The platform adjacent to the mixer leg and delivery station is missing a mid-rail.
- v. The platform for the top of the leg between Bins and the main building.

Midwest Farmers Cooperative was previously cited for a violation of this occupational safety and health standard or its equivalent standard Midwest Farmers Cooperative, which was contained in OSHA inspection number 891517, citation number 1, item number 2 and was affirmed as a final order on June 28, 2013, with respect to a workplace located at 1621 S. 118th Street, Walton, NE 68461.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	03/03/2016
Proposed Penalty:	\$13860.00

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: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.219(d)(1): Pulley(s) with part(s) seven feet or less from the floor or work platform were not guarded in accordance with the requirements specified in 29 CFR 1910.219(m) and (o):

The employer is failing to protect employees from caught between hazards associated with inadequately guarded belt and pulley assemblies. The most recent occurrence of this was found during the inspection of the facility located at 17700 South 1st Street, Martell, NE where the employer has employees operating and maintaining inadequately guarded belt and pulley assemblies for bin augers. Instances include but are not limited to:

- i. Three belt and pulley assemblies for the augers from the east leg of the receiving boot pit to bin #4.
- ii. Two belt and pulley assemblies for the augers from the leg located between the main building and bins #1, 2, & 3.

Midwest Farmers Cooperative was previously cited for a violation of this occupational safety and health standard or its equivalent standard Greenwood Farmers Coop dba Midwest Farmers Coop, which was contained in OSHA inspection number 316018282, citation number 1, item number 4a and was affirmed as a final order on February 2, 2012, with respect to a workplace located at 300 Main Street, Nehawka, NE 68413.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 03/03/2016
Proposed Penalty: \$9900.00

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: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404

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

29 CFR 1910.219(e)(3)(i): Vertical or inclined belt(s) were not enclosed by guard(s) conforming to the requirements specified at 29 CFR 1910.219(m) and (o):

The employer is failing to protect employees from caught between hazards associated with inadequately guarded belt and pulley assemblies. The most recent occurrence of this was found during the inspection of the facility located at 17700 South 1st Street, Martell, NE where the employer has employees operating and maintaining inadequately guarded belt and pulley assemblies for bin augers. Instances include but are not limited to:

- i. Three belt and pulley assemblies for the augers from the east leg of the receiving boot pit to bin #4.
Two belt and pulley assemblies for the augers from the leg located between the main building and bins #1, 2, & 3.

Midwest Farmers Cooperative was previously cited for a violation of this occupational safety and health standard or its equivalent standard Greenwood Farmers Coop dba Midwest Farmers Coop, which was contained in OSHA inspection number 316018282, citation number 1, item number 4b and was affirmed as a final order on February 2, 2012, with respect to a workplace located at 300 Main Street, Nehawka, NE 68413

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

03/03/2016


Jeff Funke
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114
Phone: 402-553-0171 Fax: 402-551-1288



INVOICE / DEBT COLLECTION NOTICE

Company Name: Midwest Farmers Coop
Inspection Site: 17700 S. 1st Street, Martell, NE 68404
Issuance Date: 02/11/2016

Summary of Penalties for Inspection Number	1106143
Citation 1, Serious	\$18810.00
Citation 2, Repeat	\$37620.00
TOTAL PROPOSED PENALTIES	\$56430.00

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.

Jeff Funke

Area Director



Date

2/11/16