

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114



Citation and Notification of Penalty

To:
Western Engineering Co., Inc.
and its successors
PO Box 249
North Platte, NE 69101

Inspection Number: 1358968
Inspection Date(s): 11/08/2018 - 11/20/2018
Issuance Date: 02/25/2019

Inspection Site:
3201 E. Highway 30
North Platte, NE 69101

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 by calling 402-553-0171. 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 02/25/2019. 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: 1358968

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101
Issuance Date: 02/25/2019

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: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.29(b)(13): When guardrail systems are used around holes that serve as points of access (such as ladderways), the guardrail system opening did not meet the requirements (b)(13)(i) or (b)(13)(ii) of this section:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to ensure that the guardrail system opening, around the ladderway point of access for the Double Barrel Drum Mixer platform, was guarded by a self-closing swinging gate or by being offset. Employees access the platform to open and enter the hatch for the Double Barrel Drum Mixer. Employees were last exposed to this hazard on or about November 6, 2018.

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

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$9472.00



Citation and Notification of Penalty

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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 2 a Type of Violation: **Serious**

29 CFR 1910.146(c)(4): When the employer decided that its employees would enter permit spaces, the employer did not develop and implement a written permit space entry program that complied with 29 CFR 1910.146:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to develop and implement a written permit required confined space entry program for employee entry into permit spaces in the following:

A) Employees entered the Double Barrel Drum Mixer to spray clean the burner nozzle and/or to perform maintenance. This hazard last occurred on or about November 6, 2018.

B) Employees entered the Baghouse through bottom hatches to look for tears in the bags for replacement. This hazard last occurred in September 2018.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$13260.00

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: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.146(e)(1): Before entry was authorized, the employer did not document the completion of measures required by 29 CFR 1910.146(d)(3) by preparing an entry permit:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to document the requirements of the standard by completing a confined space entry permit before authorized entry:

- A) Employees entered the Double Barrel Drum Mixer to spray clean the burner nozzle and/or to perform maintenance and permit required confined space entry permit(s) were not completed and documented. This hazard last occurred on or about November 6, 2018.

- B) Employees entered the Baghouse through bottom hatches to look for tears in the bags for replacement and permit required confined space entry permit(s) were not completed and documented. This hazard last occurred in September 2018.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 04/01/2019

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: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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 1910.146(d)(4): The employer did not provide the equipment specified in paragraphs (d)(4)(i)-(d)(4)(ix) of this section to employees and did not ensure that employees use that equipment properly.

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to provide the proper permit required confined space entry equipment including, but not limited to air testing/monitoring equipment and rescue equipment.

A) Employees entered the Double Barrel Drum Mixer to spray clean the burner nozzle and/or to perform maintenance without air monitoring and rescue equipment available. This hazard last occurred on or about November 6, 2018.

B) Employees entered the Baghouse through bottom hatches to look for tears in the bags for replacement without air monitoring and rescue equipment available. This hazard last occurred in September 2018.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$13260.00

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: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.146(d)(5)(i): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations were conducted by testing conditions in the permit space to determine air quality.

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to ensure that atmospheric conditions were suitable for employee entry by conducting air monitoring.

- A) Employees entered the Double Barrel Drum Mixer to spray clean the burner nozzle and/or to perform maintenance without testing the atmospheric conditions before and during entry. This hazard last occurred on or about November 6, 2018.
- B) Employees entered the Baghouse through bottom hatches to look for tears in the bags for replacement without testing the atmospheric conditions before and during entry. This hazard last occurred in September 2018.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 04/01/2019



Citation and Notification of Penalty

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.146(d)(8): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not designate the persons who were to have active roles in entry operations, identify the duties of each such employee, and did not provide each such employee with the training required by paragraph (g) of this section.

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - Employer is failing to designate the active roles in entry operations including entrants, attendants, supervisors, and provide the required training.

A) Employees entered the Double Barrel Drum Mixer to spray clean the burner nozzle and/or to perform maintenance without designated attendants and supervisors with the proper training. This hazard last occurred on or about November 6, 2018.

B) Employees entered the Baghouse through bottom hatches to look for tears in the bags for replacement without testing the atmospheric conditions before and during entry. This hazard last occurred in September 2018.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$13260.00



Citation and Notification of Penalty

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.147(c)(1): The employer did not establish a program consisting of an energy control procedure, employee training and periodic inspections to ensure that before any employee performed any servicing or maintenance on a machine or equipment where the unexpected energizing, startup or release of stored energy could occur and cause injury, the machine or equipment shall be isolated from the energy source and rendered inoperative:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant: The employer is failing to establish a lockout/tag-out program that complies with the standard that includes equipment specific energy control procedures, employee training, and periodic inspections before servicing and/or maintenance on asphalt plant equipment. Instance include but are not limited to:

- A) Double Barrel Drum Mixer, last occurred on or about November 6, 2018
- B) Baghouse last occurred on or about November 6, 2018
- C) Slat/Drag Conveyor last occurred on or about November 6, 2018 during servicing on the Double Barrel Drum Mixer.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$13260.00

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: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

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

29 CFR 1910.147(f)(3)(ii)(D): Each authorized employee did not affix a personal lockout or tagout device to the group lockout device before working on the machine or equipment:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - The employer is failing to ensure that each employee affixes a personal lockout or tagout device before servicing and/or maintenance on asphalt plant equipment including but not limited to:

- A) Double Barrel Drum Mixer, last occurred on or about November 6, 2018
- B) Baghouse last occurred on or about November 6, 2018
- C) Slat/Drag Conveyor last occurred on or about November 6, 2018 during servicing on the Double Barrel Drum Mixer.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/01/2019
Proposed Penalty:	\$13260.00



Citation and Notification of Penalty

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101

Citation 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.212(a)(1): One or more methods of machine guarding was not provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks:

Western Engineering Co., Inc. - 3201 East Highway 30 - North Platte, Nebraska - Portable Hot Mix Asphalt Plant - The employer is failing to provide appropriate machine guarding to protect employees from the hazard of ingoing rotating parts of the inlet chute of the slat/drag conveyor. On or about November 7, 2018, an employee suffered fatal injuries after being pulled into the asphalt chute of the slat/drag conveyor unit.

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

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 04/01/2019
Proposed Penalty: \$13260.00

A handwritten signature in blue ink, which appears to read "Jeff Funke", is written over a horizontal line.

Jeff Funke
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114



INVOICE / DEBT COLLECTION NOTICE

Company Name: Western Engineering Co., Inc.
Inspection Site: 3201 E. Highway 30, North Platte, NE 69101
Issuance Date: 02/25/2019

Summary of Penalties for Inspection Number	1358968
Citation 1, Serious	\$89032.00
TOTAL PROPOSED PENALTIES	\$89032.00

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.

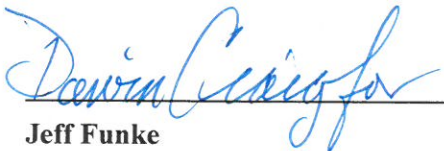
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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.

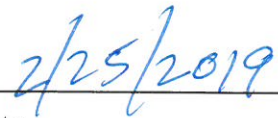
Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per 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