

**U.S. Department of Labor** Occupational Safety and Health Administration  
6393 Oak Tree Blvd,  
Suite 203  
Independence, OH 44131  
Phone: 216-447-4194 Fax: 216-520-1624



April 29, 2016

Essroc Cement Corporation  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000) revised 1990, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of the date together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.


As indicated on page 8 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,



**Howard B. Eberts**  
Area Director

Enclosures

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
6393 Oak Tree Blvd  
Suite 203  
Independence, OH 44131  
Phone: 216-447-4194 Fax: 216-520-1624



## Citation and Notification of Penalty

**To:**  
Essroc Cement Corporation  
and its successors  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016

**Inspection Site:**  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

*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](http://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](http://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 04/29/2016. The conference will be held by telephone or at the OSHA office located at 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131 on \_\_\_\_\_ at

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1105040**

Company Name: Essroc Cement Corporation  
Inspection Site: 8282 Middlebranch Ave NE, Middlebranch, OH 44652  
Issuance Date: 04/29/2016

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, 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131**

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

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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.22(a)(2): Floor(s) of workroom(s) were not maintained in a clean and, so far as possible, a dry condition:

On or about November 10, 2015, there was an elevated walkway approximately 40 feet long on the second level at the side of the number 1 rotating ball mill. The elevated walking/working surface and surrounding floor area were wet and slippery from the pulverized cement powder/dust and the rain water that was coming through the roof.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	05/19/2016
Proposed Penalty:	\$5000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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**Citation 1 Item 2** 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:

On or about November 6, 2015, an employee was exposed to potentially hot cement dust, a hazardous atmosphere and possible engulfment because of the inwardly converging walls that were internally configured such that an entrant could be trapped or asphyxiated while performing an auger replacement task inside of the dust collection system.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	05/19/2016
Proposed Penalty:	\$7000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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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 1910.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section:

On or about November 10, 2015, the employer had not established a written specific lockout/tagout procedure for work such as but not limited to the broom, shovel and wheel barrow clean up of the pile of pulverized cement powder. The powder spills out of the ventilation system at the seal of the Unidan air slide spitzer box for the number 1 ball mill.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	05/19/2016
Proposed Penalty:	\$7000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.147(d)(4)(ii): Lockout devices utilized were not affixed in a manner that held the energy isolating device in a safe or off position:

On or about November 10, 2015, The employer did not ensure employees were locked out while cleaning up piles of cement powder at the number 1 ball mill air slide spitzer box. The ratchet tool over the handle end used for racking the 4160 volt main breaker in the motor control center was deficient for controlling the electrical energy source. The ratchet handle could be locked in position but the socket segment of the ratchet could be by-passed and rotated with pliers.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

05/19/2016

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.179(j)(4)(iii): Standby crane(s) were not inspected at least semi-annually in accordance with the requirements of 1910.179(j)(2) and 1910.179(m)(2)(a):

On or about November 10, 2015, The employer did not ensure their overhead cranes received semi-annual inspection. The P&H 10 ton overhead crane and the Wright 10 ton overhead crane were available for use as standby cranes for changing large motors, adding steel balls to the ball mills and adding oil to the gear boxes.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	05/19/2016
Proposed Penalty:	\$7000.00

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:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

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:

1. On or about November 10, 2015, the dryer operation rotating cylindrical barrel that was approximately 12 feet wide by 60 feet long had two idler rollers to stabilize the rotating barrel on the north side. The two idler rolls were approximately 12 inches in diameter by 18 inches wide. The ingoing nip points of the rollers were not guarded.
2. On or about November 10, 2015, the number 1 ball mill had a rotating horizontal drive shaft approximately 12 inches in diameter and 10 feet long with a 5 foot diameter coupling between the gear box and air slide spitzer box ventilation system. The guard railing system on both sides was inadequate in that the guard railing barriers did not extend to the associated machinery and had entry gates in the centers on each side that did not have interlocks. The openings were between 10 and 20 inches at both ends of each side. The large rapid rotating drive shaft and coupling were not guarded.
3. On or about November 10, 2015, the number 1 ball mill was a rotating metal barrel 32 feet long and 9.5 feet in diameter with multiple threaded bolt ends protruded from the outside of the barrel approximately 1.5 inches. The rapid rotating ball mill was 17 inches from the top hand rail of the elevated walkway and the bolts that protruded through the outside walls of the barrel were not guarded.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1105040  
**Inspection Date(s):** 11/10/2015 - 11/10/2015  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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ESSROC READY MIX, CORPORATION WAS PREVIOUSLY CITED FOR A VIOLATION OF THIS OCCUPATIONAL SAFETY AND HEALTH STANDARD OR IT'S EQUIVALENT STANDARD 29 CFR 1910.212(a)(1), WHICH WAS CONTAINED IN OSHA INSPECTION 407102, CITATION NUMBER 1, ITEM NUMBER 2, AND WAS AFFIRMED AS A FINAL ORDER ON SEPTEMBER 11, 2012, WITH RESPECT TO A WORKPLACE LOCATED AT LOT 3 ORDERS LANE WINFIELD, WV 25213.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 05/19/2016  
Proposed Penalty: \$35000.00

A handwritten signature in black ink, appearing to read "HBE", written over a horizontal line.

**Howard B. Eberts**  
Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
6393 Oak Tree Blvd  
Suite 203  
Independence, OH 44131  
Phone: 216-447-4194 Fax: 216-520-1624



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652  
**Issuance Date:** 04/29/2016

<b>Summary of Penalties for Inspection Number</b>	<b>1105040</b>
<b>Citation 1, Serious</b>	<b>\$26000.00</b>
<b>Citation 2, Repeat</b>	<b>\$35000.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$61000.00</b>

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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. You can also make your payment electronically on [www.pay.gov](http://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.

  
\_\_\_\_\_  
**Howard B. Eberts**

Area Director

4-29-2016  
\_\_\_\_\_  
Date



**U.S. Department of Labor** Occupational Safety and Health Administration  
6393 Oak Tree Blvd,  
Suite 203  
Independence, OH 44131  
Phone: 216-447-4194 Fax: 216-520-1624



April 29, 2016

Essroc Cement Corporation  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000) revised 1990, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of the date together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

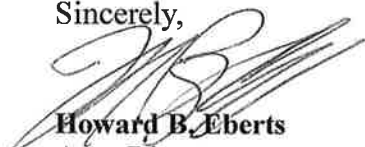
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Sincerely,



**Howard B. Eberts**  
Area Director

Enclosures

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Independence, OH 44131  
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## Citation and Notification of Penalty

**To:**  
Essroc Cement Corporation  
and its successors  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016

**Inspection Site:**  
8282 Middlebranch Ave NE  
Middlebranch, OH 44652

*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](http://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](http://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 04/29/2016. The conference will be held by telephone or at the OSHA office located at 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131 on \_\_\_\_\_ at

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1102850**

Company Name: Essroc Cement Corporation  
Inspection Site: 8282 Middlebranch Ave NE, Middlebranch, OH 44652  
Issuance Date: 04/29/2016

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, 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131**

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

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.95(b)(1): When employees were subjected to sound exceeding those listed in Table G-16, feasible administrative or engineering controls were not utilized:

On December 15, 2015, the Railcar Unloader was exposed to continuous noise levels at 143.0% of the permissible daily exposure (8-hour, time-weighted average sound level of 90 dBA or equivalently, a dose of 100 percent), during the 448 minute sampling period. Exposure calculations include a zero increment for the 32 minutes not sampled.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/03/2016
Proposed Penalty:	\$7000.00

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:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.95(g)(6): At least annually after obtaining the baseline audiogram, the employer did not obtain a new audiogram for each employee exposed at or above an 8-hour time-weighted average of 85 decibels:

The employer did not obtain a new audiogram annually for employees exposed to 8-hour time-weighted average (TWA) sound levels of 85 dBA or greater (50% dose). On December 15, 2015, the Rail Car Unloader was exposed to continuous noise levels at 154.7% of the permissible daily exposure (8-hour, time-weighted average sound level of 85 dBA or equivalently, a dose of 50 percent), during the 448 minute sampling period. Exposure calculations include a zero increment for the 32 minutes not sampled. This employee had a lapse in time between audiograms. According to the employee it had been approximately 20 years since his last audiogram.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$7000.00

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.95(k)(2): The training program was not repeated annually for each employee included in the hearing conservation program. Information in the training program was not updated to be consistent with changes in protective equipment and work processes:

On or about November 2, 2015, the employer had not provided annual training to employees involved in the hearing conservation program.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$7000.00

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:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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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 4 a** Type of Violation: **Serious**

29 CFR 1910.134(c)(1): A written respiratory protection program that included the provisions in 29 CFR 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use:

On or about November 2, 2015, employees were required to wear N-95 filtering face pieces while sweeping and working in the Mill and Terminal. The company did not have a written respiratory protection program.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$3000.00

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

On or about November 2, 2015, employees were required to wear N-95 filtering face pieces while sweeping and working in the Mill and Terminal and have not received a medical evaluation.

Date By Which Violation Must be Abated: Corrected During Inspection

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.134(f)(1): The employer did not ensure that employee(s) required to use a tight-fitting facepiece respirator passed the appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) on an annual basis:

On or about November 2, 2015, employees were required to wear N-95 filtering face pieces while sweeping and working in the Mill and Terminal and have not received a fit test.

Date By Which Violation Must be Abated: Corrected During Inspection

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.134(k)(1): The employer did not provide effective training that covered the required elements in 1910.134(k)(1)(i) through 1910.134(k)(1)(vii):

On or about November 2, 2015, employees were required to wear N-95 filtering face pieces while sweeping and working in the Mill and Terminal. Employees have not received respiratory protection training in accordance with the standard.

Date By Which Violation Must be Abated: Corrected During Inspection

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.157(e)(2): Portable fire extinguishers were not visually inspected at least monthly:

On or about November 2, 2015, the employer did not have ABC fire extinguishers located throughout the milling department visually inspected monthly.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$3000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

29 CFR 1910.157(g)(2): The educational program to familiarize employees with the general principles of fire extinguisher use and the hazards involved with incipient stage fire fighting was not provided to all employees upon initial employment, and at least annually thereafter:

On or about November 2, 2015, the employer did not provide annual training for portable fire extinguishers when available for employee use.

Date By Which Violation Must be Abated: Corrected During Inspection



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

**Inspection Number:** 1102850  
**Inspection Date(s):** 11/02/2015 - 01/26/2016  
**Issuance Date:** 04/29/2016



**Citation and Notification of Penalty**

**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652

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

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

On or about November 2, 2015, the employer had not trained or evaluated employees who drive powered industrial trucks on a daily basis.

Date By Which Violation Must be Abated:  
Proposed Penalty:

Corrected During Inspection  
\$4000.00

A handwritten signature in black ink, appearing to read "HBE", written over a horizontal line.

**Howard B. Eberts**  
Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
6393 Oak Tree Blvd  
Suite 203  
Independence, OH 44131  
Phone: 216-447-4194 Fax: 216-520-1624



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Essroc Cement Corporation  
**Inspection Site:** 8282 Middlebranch Ave NE, Middlebranch, OH 44652  
**Issuance Date:** 04/29/2016

<b>Summary of Penalties for Inspection Number</b>	<b>1102850</b>
<b>Citation 1, Serious</b>	<b>\$31000.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$31000.00</b>

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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. You can also make your payment electronically on [www.pay.gov](http://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.

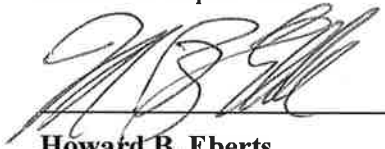
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within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



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**Howard B. Eberts**

Area Director

4-29-2016

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Date