

State of New Mexico
 Environment Department
 Occupational Health and Safety Bureau
 525 Camino de los Marquez, Suite 3
 Santa Fe NM 87505
 Phone: (505) 476-8700 Fax: (505) 476-8734



Citation and Notification of Penalty

To:
 Array Technologies
 AND ITS SUCCESSORS
 3901 Midway Place
 Albuquerque, NM 87109

Inspection Number: 1688751
Inspection Date(s): 08/04/2023-08/04/2023
Issuance Date: 02/02/2024

Inspection Site:
 3901 Midway Pl. NE
 Albuquerque, NM 87109

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the Environment Department, Occupational Health and Safety Bureau at the address shown above. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting-The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

Informal Conference- An informal conference is not required. However, at the request of an employer, affected employee, or representative of employees, the Bureau Chief or the Bureau Chiefs designee may hold an informal conference. At this conference any issues raised by an inspection, citation, proposed penalty, proposed petition for modification of abatement date or proposed petition for variance may be discussed. If you intend to request an informal conference, take care to schedule it early enough to allow time to contest after the informal conference discussion, should you decide to do so.

When the conference is requested by an employer, an affected employee or representative shall be afforded an opportunity to participate, at the discretion of the Bureau Chief or Bureau Chiefs designee. When the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Bureau Chief or Bureau Chiefs designee.

The request for an informal conference and the informal conference meeting shall not extend or modify in any manner:

- 1) an abatement date established in the citation;
- 2) the deadline for an employer to file a notice of contest;
- 3) any other filing deadline related to the citation; or
- 4) any matter pending before the bureau.

Once an employer files a notice of contest, a petition for modification of the abatement date, a request for a commission hearing, a petition for variance, or other filing with the Occupational Health and Safety Review Commission or the Environment Department, the opportunity for an informal conference is no longer available.

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 Bureau Chief 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. It is recommended that the Notice of Contest be filed via "Certified Mail".

Penalty Payment- Penalties are due within 15 working days of receipt of this notification unless contested. Make your check or money order payable to the Environment Department, Occupational Health and Safety Bureau. Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For violations which you do not contest, you should notify the Occupational Health and Safety Bureau (OHSB) that each cited violation has been abated. To certify abatement, you should complete the "Description of Corrective Action Taken" box which follows each citation and sign the statement on the last citation page. You are not required to certify abatement if the compliance officer observed that abatement has occurred during the on-site inspection. The citation may indicate that you should submit additional documentation such as photographs, purchase orders, copies of written programs, etc. Failure to return all completed forms and documents to the Program Manager no later than 10 days after the abatement date may result in additional penalties.

You are also required to inform your employees about abatement activities by posting a copy of each document submitted to OHSB or a summary of the document near the place where the violation occurred. Documents must remain posted for 3 working days after submission to OHSB.

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 Environment Department, Occupational Health and Safety Bureau at the address shown above.

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 Environment Department, Occupational Health and Safety Bureau 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.

Please note that your facility will appear on the Department's Enforcement Watch as a result of this Citation and Notification of Penalty (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.

State of New Mexico
Environment Department
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Inspection #: 1688751
Inspection Date(s): 08/04/2023-08/04/2023
Issuance Date: 02/02/2024

Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

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

11.5.2.9 NMAC

29 CFR 1910.212(a)(1): Types of guarding. One or more methods of machine guarding shall be 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. Examples of guarding methods are-barrier guards, two-hand tripping devices, electronic safety devices, etc.

On or around August 4, 2023, and at times prior, employees were exposed to pinch-point and crush hazards created by unguarded actuating machine parts while operating clamp saw number 4 in the clamp saw area.

Array Technologies was previously cited for a violation of this occupational safety and health standard or its equivalent standard, 1910.212(a)(1), which was contained in OHSB inspection number 1606676, citation number 1, item number 1, affirmed as a final order on February 27, 2023, with respect to a workplace located at 3901 Midway Place, Albuquerque, NM 87109.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

February 29, 2024
\$77,715.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

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

11.5.2.9 NMAC

29 CFR 1910.147(c)(4)(i): Procedures shall be developed, documented and utilized for the control of potentially hazardous energy when employees are engaged in the activities covered by this section. Note: Exception: The employer need not document the required procedure for a particular machine or equipment, when all of the following elements exist: (1) The machine or equipment has no potential for stored or residual energy or reaccumulation of stored energy after shut down which could endanger employees; (2) the machine or equipment has a single energy source which can be readily identified and isolated; (3) the isolation and locking out of that energy source will completely deenergize and deactivate the machine or equipment; (4) the machine or equipment is isolated from that energy source and locked out during servicing or maintenance; (5) a single lockout device will achieve a locker-out condition; (6) the lockout device is under the exclusive control of the authorized employee performing the servicing or maintenance; (7) the servicing or maintenance does not create hazards for other employees; and (8) the employer, in utilizing this exception, has had no accidents involving the unexpected activation or reenergization of the machine or equipment during servicing or maintenance.

On or around July 21 and August 4, 2023, and at times prior, employees were exposed to hazardous conditions associated with the isolation and control of hazardous energy due to the lack of equipment-specific lock-out/tag-out (LOTO) procedures.

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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

February 29, 2024
\$15,543.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Inspection #: 1688751
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Issuance Date: 02/02/2024

Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

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

11.5.2.9 NMAC

29 CFR 1910.147(c)(7)(i): The employer shall provide training to ensure that the purpose and function of the energy control program are understood by employees and that the knowledge and skills required for the safe application, usage, and removal of the energy controls are acquired by employees. The training shall include the following:

(A) Each authorized employee shall receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control.

On or around July 20, July 21, and August 4, 2023, and at times prior, employees were exposed to hazards associated with energy isolation and control due to a lack of effective training.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

February 29, 2024
\$15,543.00

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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

Citation 2 Item 3 Type of Violation: **Serious**

11.5.2.9 NMAC
29 CFR 1910.332(b)(1): Employees shall be trained in and familiar with the safety-related work practices required by 1910.331 through 1910.335 that pertain to their respective job assignments.

On or around July 20, 2023, and at times prior, employees performing work on electrical equipment were not trained on safety-related work practices, resulting in exposure to energized live parts.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

February 29, 2024
\$15,543.00

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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

Citation 2 Item 4 Type of Violation: **Serious**

11.5.2.9 NMAC

29 CFR 1910.333(a)(1): "Deenergized parts." Live parts to which an employee may be exposed shall be deenergized before the employee works on or near them, unless the employer can demonstrate that deenergizing introduces additional or increased hazards or is infeasible due to equipment design or operational limitations. Live parts that operate at less than 50 volts to ground need not be deenergized if there will be no increased exposure to electrical burns or to explosion due to electric arcs.

OR, IN THE ALTERNATIVE:

1910.333(a)(2): Energized parts. If the exposed live parts are not deenergized (i.e., for reasons of increased or additional hazards or infeasibility), other safety-related work practices shall be used to protect employees who may be exposed to the electrical hazards involved. Such work practices shall protect employees against contact with energized circuit parts directly with any part of their body or indirectly through some other conductive object. The work practices that are used shall be suitable for the conditions under which the work is to be performed and for the voltage level of the exposed electric conductors or circuit parts. Specific work practice requirements are detailed in paragraph (c) of this section.

On or around July 20, 2023, and at times prior, employees performing work on electrical equipment were exposed to live parts which were not deenergized before work began.

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Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

February 29, 2024
\$15,543.00

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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

Citation 3 Item 1 Type of Violation: **Other-than-Serious**

11.5.1.16 NMAC

29 CFR 1904.39(a)(2): Basic Requirement. Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

On July 27, 2023 the employer reported two separate employee hospitalizations after twenty-four hours had passed; the incidents occurred on July 20 and July 21, 2023.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$1,000.00

State of New Mexico
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Citation and Notification of Penalty

Company Name: Array Technologies
Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

Citation 3 Item 2 Type of Violation: **Other-than-Serious**

11.5.2.9 NMAC
29 CFR 1910.157(e)(2): Portable extinguishers or hose used in lieu thereof under paragraph (d)(3) of this section shall be visually inspected monthly.

On or around August 4, 2023, and at times prior, the employer did not conduct monthly visual inspections of portable fire extinguishers.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated: **February 29, 2024**
Proposed Penalty: **\$0.00**

I attest that all corrective actions contained in this document are accurate and affected employees have been informed of the abatement.

Signature

Date

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Citation and Notification of Penalty

Company Name: Array Technologies
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Pursuant to the New Mexico Environment Department Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue this Citation and Notification of Penalty to the Occupational Health and Safety Bureau Chief.

DocuSigned by:

Gregory Marquez

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Gregory Marquez, Program Manager

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INVOICE

Company Name: Array Technologies

Inspection Site: 3901 Midway Pl. NE Albuquerque, NM 87109

Issuance Date: 02/02/2024

Summary of Penalties for Inspection Number: 1688751

Citation 1 Item 1, Repeat-Serious	\$77,715.00
Citation 2 Item 1, Serious	\$15,543.00
Citation 2 Item 2, Serious	\$15,543.00
Citation 2 Item 3, Serious	\$15,543.00
Citation 2 Item 4, Serious	\$15,543.00
Citation 3 Item 1, Other-than-Serious	\$1,000.00
Citation 3 Item 2, Other-than-Serious	\$0.00

TOTAL PROPOSED PENALTIES: **\$140,887.00**

Please remit payment promptly to this office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: Environment Department, Occupational Health and Safety Bureau. Please indicate OHSB's Inspection Number (indicated above) on the remittance.

OHSB does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

<p>DocuSigned by: <i>Gregory Marquez</i> <small>309D20B21A80461...</small></p> <hr/> <p>Gregory Marquez, Program Manager</p>	<p style="text-align: center;">2/2/2024</p> <hr/> <p style="text-align: center;">Date</p>
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