



Citation and Notification of Penalty

To:
Nayo's Construction, LLC

AND ITS SUCCESSORS
3185 Jemez Road
Santa Fe, NM 87507

Inspection Site:
4312 Cerrillos Rd
Santa Fe, NM 87507

Inspection Number: 1700306
Inspection Date(s): 09/29/2023-09/29/2023
Issuance Date: 03/28/2024

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.

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



525 Camino de los Marquez, Suite 3
UNKNOWN
Santa Fe, NM 87505
Phone: (505) 476-8700 Fax: (505) 476-8734

Inspection Number: 1700306
Inspection Date(s): 09/29/2023-09/29/2023
Issuance Date: 03/28/2024

Citation and Notification of Penalty

Company Name: Nayo's Construction, LLC
Inspection Site: 4312 Cerrillos Rd Santa Fe, NM 87507

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

11.5.3.9 NMAC

29 CFR 1926.451(b)(1): Each platform on all working levels of scaffolds shall be fully planked or decked between the front uprights and the guardrail supports.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to platforms not being fully planked.

PROOF OF ABATEMENT:

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|-----------------------------|
| Date Corrected: |
| Describe Corrective Action: |

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$4,663.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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

11.5.3.9 NMAC

29 CFR 1926.451(c)(2): Supported scaffold poles, legs, posts, frames, and uprights shall bear on base plates and mud sills or other adequate firm foundation.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to base plates not bearing on mud sills, resulting in plates sinking into the soil.

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

11.5.3.9 NMAC

29 CFR 1926.451(e)(1): When scaffold platforms are more than 2 feet (0.6 m) above or below a point of access, portable ladders, hook-on ladders, attachable ladders, stair towers (scaffold stairways/towers), stairway-type ladders (such as ladder stands), ramps, walkways, integral prefabricated scaffold access, or direct access from another scaffold, structure, personnel hoist, or similar surface shall be used. Cross-braces shall not be used as a means of access.

OR, IN THE ALTERNATIVE:

1926.451(e)(9)(iv): Cross-braces on tubular welded frame scaffolds shall not be used as a means of access or egress.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to employees not having ladders to access scaffold platforms; employees were climbing cross-braces to gain access.

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

11.5.3.9 NMAC

29 CFR 1926.451(f)(7): Scaffolds shall be erected, moved, dismantled, or altered only under the supervision and direction of a competent person qualified in scaffold erection, moving, dismantling or alteration. Such activities shall be performed only by experienced and trained employees selected for such work by the competent person.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to scaffolds not being erected under the supervision of an individual who meets the training requirements of a competent person.

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

11.5.3.9 NMAC

29 CFR 1926.451(g)(1): Each employee on a scaffold more than 10 feet (3.1 m) above a lower level shall be protected from falling to that lower level. Paragraphs (g)(1)(i) through (vii) of this section establish the types of fall protection to be provided to the employees on each type of scaffold. Paragraph (g)(2) of this section addresses fall protection for scaffold erectors and dismantlers.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to guardrails not being installed on platforms above 10ft. in height.

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

11.5.3.9 NMAC

29 CFR 1926.451(h)(1): In addition to wearing hardhats each employee on a scaffold shall be provided with additional protection from falling hand tools, debris, and other small objects through the installation of toeboards, screens, or guardrail systems, or through the erection of debris nets, catch platforms, or canopy structures that contain or deflect the falling objects. When the falling objects are too large, heavy or massive to be contained or deflected by any of the above-listed measures, the employer shall place such potential falling objects away from the edge of the surface from which they could fall and shall secure those materials as necessary to prevent their falling.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to falling object hazards, due to hardhats not being utilized or available, and kickboards not being installed on platforms.

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Company Name: Nayo's Construction, LLC
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Citation 1 Item 7 Type of Violation: **Serious**

11.5.3.9 NMAC

29 CFR 1926.452(c)(2): Frames and panels shall be braced by cross, horizontal, or diagonal braces, or combination thereof, which secure vertical members together laterally. The cross braces shall be of such length as will automatically square and align vertical members so that the erected scaffold is always plumb, level, and square. All brace connections shall be secured.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to scaffold platforms not being fully constructed, with some gaps bridged with platforms.

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Corrected During Inspection
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Citation and Notification of Penalty

Company Name: Nayo's Construction, LLC
Inspection Site: 4312 Cerrillos Rd Santa Fe, NM 87507

Citation 1 Item 8 a Type of Violation: **Serious**

11.5.3.9 NMAC

29 CFR 1926.454(a): The employer shall have each employee who performs work while on a scaffold trained by a person qualified in the subject matter to recognize the hazards associated with the type of scaffold being used and to understand the procedures to control or minimize those hazards. The training shall include the following areas, as applicable:

- (1): The nature of any electrical hazards, fall hazards and falling object hazards in the work area;
- (2): The correct procedures for dealing with electrical hazards and for erecting, maintaining, and disassembling the fall protection systems and falling object protection systems being used;
- (3): The proper use of the scaffold, and the proper handling of materials on the scaffold;
- (4): The maximum intended load and the load-carrying capacities of the scaffolds used; and
- (5): Any other pertinent requirements of this subpart.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to a lack of training resulting in employees not identifying hazards associated with improperly constructed scaffolding.

PROOF OF ABATEMENT:

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| Date Corrected: |
| Describe Corrective Action: |

Date By Which Violation Must be Abated:
Proposed Penalty:

April 23, 2024
\$4,663.00



525 Camino de los Marquez, Suite 3
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Inspection Number: 1700306
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Issuance Date: 03/28/2024

Citation and Notification of Penalty

Company Name: Nayo's Construction, LLC
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Citation 1 Item 8 b Type of Violation: **Serious**

11.5.3.9 NMAC

29 CFR 1926.454(b): The employer shall have each employee who is involved in erecting, disassembling, moving, operating, repairing, maintaining, or inspecting a scaffold trained by a competent person to recognize any hazards associated with the work in question. The training shall include the following topics, as applicable:

- (1): The nature of scaffold hazards;
- (2): The correct procedures for erecting, disassembling, moving, operating, repairing, inspecting, and maintaining the type of scaffold in question;
- (3): The design criteria, maximum intended load-carrying capacity and intended use of the scaffold;
- (4): Any other pertinent requirements of this subpart.

On or about September 27, 2024, employees performing work atop scaffolds were exposed to fall hazards, due to the lack of a competent person being trained to recognize any hazards associated with the erecting, disassembling, moving, operating, repairing, maintaining, or inspecting a scaffold.

PROOF OF ABATEMENT:

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| Date Corrected: |
| Describe Corrective Action: |

Date By Which Violation Must be Abated:
Proposed Penalty:

April 23, 2024
\$0.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Company Name: Nayo's Construction, LLC
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I attest that all corrective actions contained in this document are accurate and affected employees have been informed of the abatement.

Signature

Date

Gregory J. Marquez
Program Manager

State of New Mexico
Environment Department
Occupational Health and Safety Bureau
525 Camino de los Marquez, Suite 3
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INVOICE

Company Name: Nayo's Construction, LLC
Inspection Site: 4312 Cerrillos Rd Santa Fe, NM 87507
Issuance Date: 03/28/2024

Summary of Penalties for Inspection Number: 1700306

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|-----------------------------|------------|
| Citation 1 Item 1, Serious | \$4,663.00 |
| Citation 1 Item 2, Serious | \$4,663.00 |
| Citation 1 Item 3, Serious | \$4,663.00 |
| Citation 1 Item 4, Serious | \$4,663.00 |
| Citation 1 Item 5, Serious | \$4,663.00 |
| Citation 1 Item 6, Serious | \$4,663.00 |
| Citation 1 Item 7, Serious | \$4,663.00 |
| Citation 1 Item 8a, Serious | \$4,663.00 |
| Citation 1 Item 8b, Serious | \$0.00 |

TOTAL PROPOSED PENALTIES: **\$37,304.00**

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.

Gregory J. Marquez, Program Manager

Date