

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:
 Tagawa Greenhouse Inc.
 AND ITS SUCCESSORS
 PO Box 709
 Estancia, NM 87016

Inspection Number: 1635721
Inspection Date(s): 11/22/2022-11/22/2022
Issuance Date: 04/14/2023

Inspection Site:
 1459 NM-542
 Estancia, NM 87016

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.

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Issuance Date: 04/14/2023

Citation and Notification of Penalty

Company Name: Tagawa Greenhouse Inc.
Inspection Site: 1459 NM-542 Estancia, NM 87016

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

11.5.2.9 NMAC

29 CFR 1910.28(b)(1)(i):(1) Unprotected sides and edges. (i) Except as provided elsewhere in this section, the employer must ensure that each employee on a walking-working surface with an unprotected side or edge that is 4 feet (1.2 m) or more above a lower level is protected from falling by one or more of the following:

- (b)(1)(i)(A) Guardrail systems;
- (b)(1)(i)(B) Safety net systems; or
- (b)(1)(i)(C) Personal fall protection systems, such as personal fall arrest, travel restraint, or positioning systems.

Employees are exposed to fall from heights over 10 feet while walking on elevated planks to install black shade curtains.

The employer Tagawa Greenhouse was previously cited for a violation of this occupational safety and health standard or its equivalent standard previously cited standard, which was contained in OHSB inspection number 1584793, 29CFR 1910.28 (b)(1)(i) Citation 1, Item 1 affirmed as a final order on 12-19-2022 with respect to a workplace located on zone 11.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 10, 2023
\$59,342.00

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Company Name: Tagawa Greenhouse Inc.
Inspection Site: 1459 NM-542 Estancia, NM 87016

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

11.5.2.9 NMAC

29 CFR 1910.178(l)(1)(i): The employer shall ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation specified in this paragraph (l).

The employer did not ensure that employees were properly trained and certified on the forklift prior to operating it, placing other employees in the hazard of being struck by. This violation occurred on 3/17/2023, and at times prior thereto, in the warehouse facility; employees operated forklift without first completing training consisting of a combination of formal instruction, practical training, and evaluation of operator performance.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 10, 2023
\$9,000.00

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

11.5.2.9 NMAC

29 CFR 1910.303(b)(8)(i): Electric equipment shall be firmly secured to the surface on which it is mounted.

(b)(8)(i) of this section: Wooden plugs driven into holes in masonry, concrete, plaster, or similar materials are not considered secure means of fastening electric equipment.

The employer did not ensure that the electrical box that was installed in the greenhouse at or near Zone 11 was securely mounted so not to be struck against creating a arch flash, shock or electrocution hazard.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:

May 10, 2023

Proposed Penalty:

\$11,868.00

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

Signature

Date

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Company Name: Tagawa Greenhouse Inc.
Inspection Site: 1459 NM-542 Estancia, NM 87016

DocuSigned by:

Gregory Marquez

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Gregory J. Marquez, Program Manager

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INVOICE

Company Name: Tagawa Greenhouse Inc.

Inspection Site: 1459 NM-542 Estancia, NM 87016

Issuance Date: 04/14/2023

Summary of Penalties for Inspection Number: 1635721

Citation 1 Item 1, Repeat-Serious	\$59,342.00
Citation 2 Item 1, Serious	\$9,000.00
Citation 2 Item 2, Serious	\$11,868.00

TOTAL PROPOSED PENALTIES: **\$80,210.00**

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.

DocuSigned by:

Gregory Marquez

309D20B21A80461...

Gregory J. Marquez, Program Manager

4/14/2023

Date