



## Citation and Notification of Penalty

To:  
City of Deming/Parks Department  
AND ITS SUCCESSORS  
ATTN Yeimi Bustos, 309 South Gold Avenue  
Deming, NM 88030

**Inspection Number:** 1656136  
**Inspection Date(s):** 03/07/2023-03/08/2023  
**Issuance Date:** 08/24/2023

**Inspection Site:**  
201 Airport Rd.  
Deming, NM 88030

*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  
Occupational Health and Safety Bureau



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

**Inspection #:** 1656136  
**Inspection Date(s):** 03/07/2023-03/08/2023  
**Issuance Date:** 08/24/2023

**Citation and Notification of Penalty**

**Company Name:** City of Deming/Parks Department  
**Inspection Site:** 201 Airport Rd. Deming, NM 88030

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

NMAC 11.5.2.9

29 CFR 1910.151(c):Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

[63 FR 33450, June 18, 1998]

The City of Deming, Parks Department employees are exposed to contact with possible toxic chemicals to the face or eyes by not providing an adequate and suitable facilities for quick drenching or flushing of the eyes and body.

**PROOF OF ABATEMENT:**

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$5,400.00**

State of New Mexico  
Environment Department  
Occupational Health and Safety Bureau



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**Company Name:** City of Deming/Parks Department  
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Citation 1 Item 2      Type of Violation: **Serious**

NMAC 11.5.2.9

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 City of Deming did not ensure that employees who operate a forklift or any powered industrial trucks are trained and certified to operate safely.

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Date Corrected:
Describe Corrective Action:

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**Proposed Penalty:**

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**Company Name:** City of Deming/Parks Department  
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Citation 1 Item 3      Type of Violation: **Serious**

NMAC 11.5.2.9

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.

Employes's were exposed to caught in moving parts to a cement mixer that did not securely close because the latch to the guard was broken and wouldn't allow the load to be secure.

**PROOF OF ABATEMENT:**

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$11,868.00**

State of New Mexico  
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**Company Name:** City of Deming/Parks Department  
**Inspection Site:** 201 Airport Rd. Deming, NM 88030

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

NMAC 11.5.2.9

29 CFR 1910.212(a)(3)(ii): The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards therefor, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

Employees of the City of Demings Parks Department are exposed to struck by flying objects and particles from broken shields and guards of the two Toro riding lawnmowers.

**PROOF OF ABATEMENT:**

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$5,400.00**

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**Company Name:** City of Deming/Parks Department  
**Inspection Site:** 201 Airport Rd. Deming, NM 88030

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

NMAC 11.5.2.9

29 CFR 1910.303(b)(7)(iv): There shall be no damaged parts that may adversely affect safe operation or mechanical strength of the equipment, such as parts that are broken, bent, cut, or deteriorated by corrosion, chemical action, or overheating.

The City of Deming, Parks department employees are exposed to contact with electrical current with a cracked and broken electrical outlet receptacle in the wash bay of the maintenance shop.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$9,000.00**

State of New Mexico  
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**Citation and Notification of Penalty**

**Company Name:** City of Deming/Parks Department  
**Inspection Site:** 201 Airport Rd. Deming, NM 88030

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

NMAC 11.5.2.9

29 CFR 1910.305(g)(2)(iii): Flexible cords and cables shall be connected to devices and fittings so that strain relief is provided that will prevent pull from being directly transmitted to joints or terminal screws.

Employees are exposed to possible electrical shock from a strained cord exposing wires of the power cord to the ice machine.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$9,000.00**



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**Company Name:** City of Deming/Parks Department  
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Citation 2 Item 1 Type of Violation: **Other-than-Serious**

NMAC 11.5.3.9

29 CFR 1910.37(b)(2): Each exit must be clearly visible and marked by a sign reading "Exit."

City of Deming Parks department shop have a partial view of exit signs above the door. This sign is not clearly visible for employees to see in the case of an emergency to exit the facility.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$0.00**

State of New Mexico  
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Citation 2 Item 2      Type of Violation: **Other-than-Serious**

NMAC 11.5.2.9

29 CFR 1910.157(e)(1): The employer shall be responsible for the inspection, maintenance and testing of all portable fire extinguishers in the workplace.

The employer did not ensure that all fire extinguishers were inspected and maintained on a monthly basis.

**PROOF OF ABATEMENT:**

Date Corrected:
Describe Corrective Action:

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 20, 2023**  
**\$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

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Environment Department  
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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.

A handwritten signature in blue ink, appearing to read "R. Genoway", with a long horizontal line extending to the right.

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Robert Genoway, Bureau Chief

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## INVOICE

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**Company Name:** City of Deming/Parks Department

**Inspection Site:** 201 Airport Rd. Deming, NM 88030

**Issuance Date:** 08/24/2023

**Summary of Penalties for Inspection Number:** 1656136

Citation 1 Item 1, Serious	\$5,400.00
Citation 1 Item 2, Serious	\$5,400.00
Citation 1 Item 3, Serious	\$11,868.00
Citation 1 Item 4, Serious	\$5,400.00
Citation 1 Item 5, Serious	\$9,000.00
Citation 1 Item 6, Serious	\$9,000.00
Citation 2 Item 1, Other-than-Serious	\$0.00
Citation 2 Item 2, Other-than-Serious	\$0.00


**TOTAL PROPOSED PENALTIES:**

**\$46,068.00**

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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.

  
\_\_\_\_\_  
Robert Genoway, Bureau Chief

8/24/2023  
\_\_\_\_\_  
Date