

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:
Southwest Cheese Company, LLC
AND ITS SUCCESSORS
1141 County Road 4
Clovis, NM 88101

Inspection Number: 1795875
Inspection Date(s): 01/02/2025-01/06/2025
Issuance Date: 06/27/2025

Inspection Site:
1141 Curry Road 4
Clovis, NM 88101

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.

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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.

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Inspection #: 1795875
Inspection Date(s): 01/02/2025-01/06/2025
Issuance Date: 06/27/2025

Citation and Notification of Penalty

Company Name: Southwest Cheese Company, LLC
Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

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

Section 50-9-5.A, NMSA 1978 (New Mexico Occupational Health and Safety Act): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees

On or about December 30, 2024, employees at Southwest Cheese Company, LLC were exposed to chlorine gas at least 30 times the OSHA PEL Ceiling and 75 times the ACGIH STEL, resulting in 26 employees requiring medical evaluation, of which 14 employees were hospitalized. Each employee was working in the work areas adjacent to the CIP 2000 (clean in place) chemical room when two separate equipment malfunctions occurred, a high level switch failed on a tank containing Dixichlor Max® (sodium hypochlorite, bleach) and the fill valve failed to fully close on a tank containing MPA Clear® No. 148 (nitric and phosphoric acid). Both tanks simultaneously overflowed and mixed on the floor, resulting in a release of chlorine gas. The potential for chlorine gas exposure in cheese plant CIP rooms is a well-documented and recognized hazard within the food processing industry.

Among other methods, a feasible and acceptable method of abatement includes, but is not limited to, implementing gas detection systems in the CIP chemical rooms or monitoring in case of gas releases, alarms, emergency ventilation (boost fans or purge systems), secondary containment, or incompatible chemical segregation. Feasible methods of abatement are detailed by the Code of Federal Regulations, Title 40, Chapter I, Subchapter I, 264.175 Containment at website: <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-264/subpart-I/section-264.175>. A containment system must be designed and operate as follows: "a base must underlie the containers, which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed."

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Citation and Notification of Penalty

Company Name: Southwest Cheese Company, LLC
Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

July 24, 2025
\$16,554.00

State of New Mexico
 Environment Department
 Occupational Health and Safety Bureau



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Issuance Date: 06/27/2025

Citation and Notification of Penalty

Company Name: Southwest Cheese Company, LLC
Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

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

Section 50-9-5.A, NMSA 1978 (New Mexico Occupational Health and Safety Act): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees

On or about December 30, 2024, employees at Southwest Cheese Company, LLC did not have adequate safeguards such as gas detection or monitoring system, emergency alarm, emergency ventilation (boost fans or purge systems), and primary and secondary containment for segregation of incompatible chemicals in the clean in place (CIP) chemical rooms. Each employee was working in the work areas adjacent to the CIP 2000 (clean in place) chemical room when two separate equipment malfunctions occurred, a high level switch failed on a tank containing Dixichlor Max® (sodium hypochlorite, bleach) and the fill valve failed to fully close on a tank containing MPA Clear® No. 148 (nitric and phosphoric acid). Both tanks simultaneously overflowed and mixed on the floor, resulting in a release of chlorine gas. 26 employees required medical attention, of which 14 were hospitalized. The potential for chlorine gas exposure in cheese plant CIP rooms is a well-documented and recognized hazard within the food processing industry.

Among other methods, a feasible and acceptable method of abatement includes, but is not limited to, implementing gas detection systems in the CIP chemical rooms or monitoring in case of gas releases, alarms, emergency ventilation (boost fans or purge systems), secondary containment, or incompatible chemical segregation. Feasible methods of abatement are detailed by the Code of Federal Regulations, Title 40, Chapter I, Subchapter I, 264.175 Containment at website: <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-264/subpart-I/section-264.175>. A containment system must be designed and operate as follows: "a base must underlie the containers, which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed."

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Company Name: Southwest Cheese Company, LLC
Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

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

Section 50-9-5.A, NMSA 1978 (New Mexico Occupational Health and Safety Act): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees

On or about December 30, 2024, employees at Southwest Cheese Company, LLC did not ensure doors to CIP 2000, one of the Clean-in-place (CIP) chemical rooms, were closed to allow negative pressure ventilation to exhaust vapor from adjacent production areas in case of accidental chemical gas release. Each employee was working in the work areas adjacent to the CIP 2000 chemical room when two separate equipment malfunctions occurred, a high level switch failed on a tank containing Dixichlor Max® (sodium hypochlorite, bleach) and the fill valve failed to fully close on a tank containing MPA Clear® No. 148 (nitric and phosphoric acid). Both tanks simultaneously overflowed and mixed on the floor, resulting in a release of chlorine gas. 26 employees required medical attention, of which 14 were hospitalized. The potential for chlorine gas exposure in cheese plant CIP rooms is a well-documented and recognized hazard within the food processing industry.

Among other methods, a feasible and acceptable method of abatement includes, but is not limited to, implementing gas detection systems in the CIP chemical rooms or monitoring in case of gas releases, alarms, emergency ventilation (boost fans or purge systems), secondary containment, or incompatible chemical segregation. Feasible methods of abatement are detailed by the Code of Federal Regulations, Title 40, Chapter I, Subchapter I, 264.175 Containment at website: <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-264/subpart-I/section-264.175>. A containment system must be designed and operate as follows: "a base must underlie the containers, which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed."

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PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

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Company Name: Southwest Cheese Company, LLC
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Citation 1 Item 4 Type of Violation: **Serious**

11.5.2.9 NMAC

29 CFR 1910.38(e): Training. An employer must designate and train employees to assist in a safe and orderly evacuation of other employees.

On or about December 30, 2024, at 1141 County Road 4 in Clovis NM 88101, Southwest Cheese Company, LLC did not provide training to the employees designated in the Emergency Action Plan to safely and orderly evacuate employees during a chemical release in the plant.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

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Citation and Notification of Penalty

Company Name: Southwest Cheese Company, LLC
Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

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

11.5.2.9 NMAC

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.

On or about December 30, 2024, at 1141 County Road 4 in Clovis NM 88101, Southwest Cheese Company, LLC did not ensure that the high level switch and the fill valve were not damaged in the day tanks of Clean-in-place (CIP) chemical room 2000 leading to two separate equipment malfunctions that occurred simultaneously resulting in the overflow of Dixichlor Max® (sodium hypochlorite, bleach) and mixing with MPA Clear® No. 148 (nitric and phosphoric acid) which released chlorine gas.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

July 24, 2025
\$16,554.00

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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Pursuant to the New Mexico Environment Department Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue this Citation and Notification of Penalty to the Occupational Health and Safety Section Chief.

Signed by:

Gregory J. Marquez

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Gregory J. Marquez, Acting Section Chief

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INVOICE

Company Name: Southwest Cheese Company, LLC

Inspection Site: 1141 Curry Road 4 Clovis, NM 88101

Issuance Date: 06/27/2025

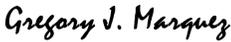
Summary of Penalties for Inspection Number: 1795875

Citation 1 Item 1, Serious	\$16,554.00
Citation 1 Item 2, Serious	\$16,554.00
Citation 1 Item 3, Serious	\$16,554.00
Citation 1 Item 4, Serious	\$16,554.00
Citation 1 Item 5, Serious	\$16,554.00

TOTAL PROPOSED PENALTIES: **\$82,770.00**

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.

Signed by:

309D20B21A80461...

Gregory J. Marquez, Acting Section Chief

6/27/2025

Date