

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:
 American Equipment Manufacturing, Inc.
 AND ITS SUCCESSORS
 1000 Troy King Rd
 Farmington, NM 87401

Inspection Number: 1695801
Inspection Date(s): 09/06/2023-11/03/2023
Issuance Date: 05/08/2024

Inspection Site:
 1000 Troy King Rd
 Farmington, NM 87401

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



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Inspection #: 1695801
Inspection Date(s): 09/06/2023-11/03/2023
Issuance Date: 05/08/2024

Citation and Notification of Penalty

Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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

11.5.2.9 NMAC

29 CFR 1910.95(c)(1): The employer shall administer a continuing, effective hearing conservation program, as described in paragraphs (c) through (o) of this section, whenever employee noise exposures equal or exceed an 8-hour time-weighted average sound level (TWA) of 85 decibels measured on the A scale (slow response) or, equivalently, a dose of fifty percent. For purposes of the hearing conservation program, employee noise exposures shall be computed in accordance with appendix A and Table G-16a, and without regard to any attenuation provided by the use of personal protective equipment.

On or about December 20, 2023, employees working in the code welding section of American Equipment Manufacturing were operating grinders and welding tanks in the manufacture of vessel tanks. Employees in this section of the shop were exposed to noise levels over 85dBA. A hearing conservation program has not been developed and implemented for employees.

Code Welder - The employee was exposed to a sound level at 64.9% of the permissible daily dose level, when measured with a 90 dB threshold, or an equivalent sound level of approximately 86.9 dBA (8-hr TWA) for a 449 minute sample period. Exposure calculation includes a zero increment for the time not sampled.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 25, 2024
\$8,750.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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

11.5.2.9 NMAC

29 CFR 1910.134(e)(1): General. The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

On or about December 20, 2023, American Equipment Manufacturing did not provide a medical evaluation to determine employee compatibility to use respiratory protection, before the employee was fit tested and required to use a respirator when entering tank vessels to spray paint the interior coating. Employees were exposed to respiratory hazards while handling paints.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 25, 2024
\$8,750.00

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Citation and Notification of Penalty

Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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

11.5.2.9 NMAC

29 CFR 1910.134(f)(1): The employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) as stated in this paragraph.

On or about December 20, 2023, American Equipment Manufacturing did not conduct fit tests prior to mandatory respiratory protection use when employees entered tank vessels to spray paint the interior coating. Affected employees were exposed to respiratory hazards while handling paints.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:

June 25, 2024

Proposed Penalty:

\$0.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Citation and Notification of Penalty

Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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

11.5.2.9 NMAC

29 CFR 1910.146(c)(1): The employer shall evaluate the workplace to determine if any spaces are permit-required confined spaces.

NOTE: Proper application of the decision flow chart in Appendix A to section 1910.146 would facilitate compliance with this requirement.

On or about December 20, 2023, American Equipment Manufacturing did not evaluate the workplace to determine if any spaces, including tank vessels, were permit-required confined spaces. Employees were exposed to hazardous atmospheric conditions with an overexposure to n-butyl alcohol (1-Butanol) that is less than or equal to 10% by weight of the Phenicon HS Epoxy (Part A) composition while spray coating epoxies inside tank vessels.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 04, 2024
\$8,750.00

State of New Mexico
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Citation and Notification of Penalty

Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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

NMAC 11.5.2.9

29 CFR 1910.146(c)(2): If the workplace contains permit spaces, the employer shall inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces.

NOTE: A sign reading DANGER -- PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER or using other similar language would satisfy the requirement for a sign.

On or about December 20, 2023, American Equipment Manufacturing did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of the danger posed by the permit spaces. Employees were exposed to hazardous atmospheric conditions with an overexposure of n-butyl alcohol (1-Butanol) that is less than or equal to 10% by weight of the Phenicon HS Epoxy (Part A) composition while spray coating epoxies inside tank vessels.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 25, 2024
\$0.00

State of New Mexico
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Company Name: American Equipment Manufacturing, Inc.
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Citation 1 Item 3 c Type of Violation: **Serious**

NMAC 11.5.2.9

29 CFR 1910.146(c)(4): If the employer decides that its employees will enter permit spaces, the employer shall develop and implement a written permit space program that complies with this section. The written program shall be available for inspection by employees and their authorized representatives.

On or about September 6, 2023 and days up to December 20, 2023, American Equipment Manufacturing did not develop and implement a written permit-required confined space program. Employees were exposed to hazardous atmospheric conditions with an overexposure of n-butyl alcohol (1-Butanol) that is less than or equal to 10% by weight of the Phenicon HS Epoxy (Part A) composition while spray coating epoxies inside tank vessels.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 25, 2024
\$0.00

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Company Name: American Equipment Manufacturing, Inc.
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Citation 1 Item 4 Type of Violation: **Serious**

11.5.2.9 NMAC

29 CFR 1910.1000(a)(2): Other substances -- 8-hour Time Weighted Averages. An employee's exposure to any substance in Table Z-1, the exposure limit of which is not preceded by a "C", shall not exceed the 8-hour Time Weighted Average given for that substance any 8-hour work shift of a 40-hour work week.

On or about December 20, 2023, employees engaged in spray coating application of epoxies, such as Phenicon HS Epoxy (Part A&B), were exposed over the permissible exposure limit (PEL, 8-hour TWA) for n-Butyl alcohol. The hazardous air contaminant exposure was sampled at 140 ppm for n-Butyl alcohol with a PEL severity of 1.36.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 04, 2024
\$8,750.00

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Company Name: American Equipment Manufacturing, Inc.
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Citation 1 Item 5 Type of Violation: **Serious**

11.5.2.9 NMAC

29 CFR 1910.1200(h)(1): Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and safety data sheets.

On or about December 20, 2023, American Equipment Manufacturing did not provide effective information and training on hazardous chemicals, such as for the hazards of Phenicon HS Epoxy (Part A&B), used in the coating station where employees engaged in spray coating applications. Affected employees were exposed to respiratory hazards and other various chemical hazards while working in the paint booth and while applying the epoxy spray coatings onto the interior of the tank vessels.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

June 04, 2024
\$8,750.00

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



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Citation and Notification of Penalty

Company Name: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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: American Equipment Manufacturing, Inc.
Inspection Site: 1000 Troy King Rd Farmington, NM 87401

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 Program Manager.

DocuSigned by:

Gregory Marquez

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Gregory J. Marquez, Program Manager

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INVOICE

Company Name: American Equipment Manufacturing, Inc.

Inspection Site: 1000 Troy King Rd Farmington, NM 87401

Issuance Date: 05/08/2024

Summary of Penalties for Inspection Number: 1695801

Citation 1 Item 1, Serious	\$8,750.00
Citation 1 Item 2a, Serious	\$8,750.00
Citation 1 Item 2b, Serious	\$0.00
Citation 1 Item 3a, Serious	\$8,750.00
Citation 1 Item 3b, Serious	\$0.00
Citation 1 Item 3c, Serious	\$0.00
Citation 1 Item 4, Serious	\$8,750.00
Citation 1 Item 5, Serious	\$8,750.00

TOTAL PROPOSED PENALTIES: **\$43,750.00**

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 J. Marquez, Program Manager</p>	<p>5/8/2024</p> <hr/> <p>Date</p>
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