



NM Environment Department
OCCUPATIONAL HEALTH & SAFETY
BUREAU
PO Box 5469
Santa Fe, New Mexico 87502-5469

**NEW MEXICO
OCCUPATIONAL HEALTH AND SAFETY
BUREAU**



**CLOSING
CONFERENCE
GUIDE**

**New Mexico Environment Department
OCCUPATIONAL HEALTH & SAFETY BUREAU
PO Box 5469
Santa Fe, NM 87502-5469**

Phone (505) 476-8700 Fax (505) 476-8734

www.nmenv.state.nm.us

12. YOU MAY SEEK A VARIANCE FROM A REGULATION:

The Act permits you to obtain a temporary variance from a newly promulgated state regulation if you are unable to comply by its effective date for certain specific reasons. You may also obtain a permanent variance from a regulation if you can prove that your facilities or methods of operation are at least as effective as would be assured by the applicable regulation.

For additional information or for answers to any questions you may have, please contact the Compliance Officer performing the inspection or the Compliance Program Manager.



**New Mexico Environment Department
Occupational Health and Safety Bureau
525 Camino de los Marquez, Suite 3
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Phone (505) 476-8711 or 1-877-610-6742 ■ Fax (505) 476-8734

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TO THE EMPLOYER:

The New Mexico Environment Department is providing you with this pamphlet which explains what happens after an occupational health and safety inspection. It also provides a convenient reference to the topics that may be discussed with the Compliance Officer in the closing conference.

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8. PENALTIES FOR FAILURE TO CORRECT A VIOLATION BY THE DATE PRESCRIBED:

Under the Act, penalties may be imposed for failure to correct violations which are not contested. Penalties of up to \$7,000 may be imposed for each calendar day the violation continues beyond the final abatement date.

9. IT IS ILLEGAL TO PROVIDE FALSE INFORMATION:

Providing a false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained is criminally punishable under the New Mexico Occupational Health and Safety Act.

10. EMPLOYEES MAY CHALLENGE ABATEMENT DATES:

Employees or any employee's representative may contest any abatement date set for a violation if they believe the abatement period to be unreasonably long.

11. IT IS UNLAWFUL TO DISCRIMINATE AGAINST EMPLOYEES:

The New Mexico Occupational Health and Safety Act prohibits employers from discharging or discriminating against an employee because that employee has exercised any right under the Act. Such rights include the right to make safety/health complaint(s) or to request an occupational health and safety inspection. Complaints from employees who believe they have been discriminated against will be investigated by either the Bureau or Federal OSHA. *If the investigation discloses a probable violation of employee rights, and a settlement is not reached, court action will follow.*

6. **ADVISE THE BUREAU OF ANY CORRECTIVE ACTION TAKEN:**

For violations you do not contest, you must notify the Bureau in writing, that you have corrected the alleged violation(s) by the abatement date(s) set in the Citation. Notification must be received by the Bureau within 10 calendar days after the abatement date(s) and you must:

- Provide the date corrected and a description of the corrective action in the box provided in the Citation;
- Sign the certification statement on the last page of the Citation; and
- Submit all documentation demonstrating completion of abatement as required in the Citation.

If you do not return the documents showing corrective action within 10 calendar days, a follow-up inspection may be scheduled by the Bureau, and additional penalties may be assessed.

7. **A FOLLOW-UP INSPECTION MAY BE CONDUCTED:**

After you receive a Citation and advise the Bureau of any corrective action, a follow-up inspection may be conducted to verify that you have:

- Posted the Citation and abatement verification as required in the Citation;
- Corrected the violations as required in the Citation; and
- Adequately protected employees during multi-step or lengthy abatement periods.

You have a continuing responsibility to comply with the Act and all applicable State Regulations. Any new violations discovered during a follow-up inspection will be cited.

CLOSING CONFERENCE

Your workplace was inspected by the Occupational Health and Safety Bureau (OHSB) of the New Mexico Environment Department, under authority of the New Mexico Occupational Health and Safety Act (Act). The compliance officer may have found conditions which he or she believes are in violation of State Regulations. You will receive through certified mail a **Citation and Notification of Penalty**, which will describe the nature of the alleged violations, establish dates for abatement of the violations, and set forth monetary penalties.

The following information is provided to inform you of your responsibilities and rights under the Act. It will also inform you of necessary future action, if citations are issued. *When you receive a Citation and Notification of Penalty, please read it carefully.*

1. **GENERAL INFORMATION:**

For each alleged violation found during inspection, the compliance officer will discuss with you the following:

- Nature of the alleged violation;
- Measures you may be required to take to correct/abate the condition; and
- Abatement dates you may be required to meet.

To minimize exposure of your employees to hazardous conditions, it is recommended that you begin and complete abatement efforts as soon as possible.

Hazards may have been identified during this inspection which could require further assessment by another compliance officer. For example, a health hazard may require evaluation by an industrial hygienist. During the closing conference, you will be advised of any condition that may be referred to another compliance officer for examination at a later date.

2. POSTING DOCUMENTS:

The unedited Citation, or a copy of it, must be posted at or near the place the alleged violation(s) occurred to let employees know about hazards to which they may be exposed. If you cannot post there, contact the Bureau's compliance officer for information on where to post or see 11.5.1.24 NMAC. The Citation must remain posted for three working days (working days are Monday through Friday, excluding federal and state holidays) or until the violation is corrected, whichever is later.

You also need to post each subsequent notice or document in this matter. Ask your OHSB compliance officer for details or see 11.5.1.24 NMAC and 11.5.5 NMAC.

3. YOU MUST COMPLY WITH THE CITATION AND NOTIFICATION OF PENALTY UNLESS YOU FOLLOW APPROPRIATE CONTEST PROCEDURES:

If you **accept and do not contest** the Citation and Notification of Penalty, you must:

- Correct the alleged violation(s) by the date(s) set in the Citation;
- Pay the penalty, if one is proposed; and
- Provide written documentation that the corrections have been made.

4. CONTEST PROCEDURES:

If you do not agree with any portion of the Citation and Notification of Penalty, you have **15 working days** from the date you receive the Citation and Notification of Penalty to contest. You must notify the Bureau in writing of what you wish to contest: violation(s) alleged in the Citation; the penalty; the abatement period(s); or any combination of those items. ***If you do not submit your Notice of Contest to the Bureau within 15 working days, the Citation and Notification of Penalty will become a final order of the New Mexico Occupational Health and Safety Review Commission.***

Before you file a Notice of Contest, you may have an Informal Discussion with the Compliance Program Manager. You may request the discussion by telephone at (505) 476-8711 or 1-877-610-6742, by fax at (505) 476-8734 or by writing to the address on the Citation.

During the discussion, you can obtain more information on citations, safety and health programs, conduct of the inspection, means of correction, and penalties.

Neither the request nor the Informal Discussion extends the 15 working day contest deadline.

Once you submit a Notice of Contest, the Bureau will contact you to schedule an Informal Administrative Review with the Compliance Program Manager who may uphold, modify or eliminate any contested item.

If a settlement agreement on all issues (or all non-abatement issues, if appropriate) is not reached during the Informal Administrative Review, the Bureau will file an Administrative Complaint with the Commission. You must then file an Answer within 15 days, and a hearing will be scheduled to occur before the Commission within 30 days of the filing of the Answer.

5. PENALTIES:

Penalties must be paid within 15 working days after you receive the Citation and Notification of Penalty. If, however, you submit a Notice of Contest in good faith, you need not pay the penalties proposed for contested items until a final decision is made.