



Citation and Notification of Penalty

To:
New MexiCann Natural Medicine

Inspection Number: 1500772
Inspection Date(s): 10/15/2020-10/15/2020
Issuance Date: 04/13/2021

AND ITS SUCCESSORS
1592 San Mateo Lane
Santa Fe, NM 87505

Inspection Site:
1594 San Mateo Lane
Santa Fe, NM 87505

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.

State of New Mexico
Environment Department
Occupational Health and Safety Bureau



525 Camino de los Marquez, Suite 3, P. O. Box 5469
Santa Fe NM 87505
87505
Phone: (505) 476-8700 Fax: (505) 476-8734

Inspection Number: 1500772
Inspection Date(s): 10/15/2020-10/15/2020
Issuance Date: 04/13/2021

Citation and Notification of Penalty

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

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

29 CFR 1910.36(d)(1): Employees must be able to open an exit route door from the inside at all times without keys, tools, or special knowledge. A device such as a panic bar that locks only from the outside is permitted on exit discharge doors.

Employees could not open the only exit route/door into and out of the extraction room from the inside at all times without keys, tools, or special knowledge of its operating functions. Employees were trapped by a door malfunction while an explosion occurred in the extraction room while an ethanol extraction was being performed. The ingress/egress door had to be forced open with an axe from the exterior in order to open and release trapped employees from the extraction room thereby exposing employees to fire.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$94,432.80

State of New Mexico
Environment Department
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Company Name: New MexiCann Natural Medicine
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Citation 2 Item 1 Type of Violation: **Serious**

29 CFR OSH ACT of 1970 Section (5)(a)(1):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

Employees conducting an ethanol extraction process were exposed to being caught in an explosive atmosphere. Extraction for the purpose of manufacturing cannabis extract concentrates was being conducted in an open loop system allowing for the escape of flammable vapors. The New Mexicann Standard Operating Procedures used for conducting the extraction process included opening the distillation equipment during the extraction process to remove and dump excess alcohol. Employees were exposed to concentrations of flammable vapors that caused an explosion.

PROOF OF ABATEMENT:

Date Corrected:
Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$9,443.00

State of New Mexico
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Company Name: New MexiCann Natural Medicine
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Citation 2 Item 2 Type of Violation: **Serious**

29 CFR 1910.106(b)(6): "Sources of ignition." In locations where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, and mechanical), spontaneous ignition, chemical and physical-chemical reactions, and radiant heat.

New Mexicann Natural Medicine did not take precautions to control or eliminate sources to prevent ignition of flammable vapors in the extraction laboratory. Heat and spark producing electrical and mechanical surfaces as well as radiant heat existed within the laboratory workplace.

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\$9,443.00

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Company Name: New MexiCann Natural Medicine
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Citation 2 Item 3 Type of Violation: **Serious**

29 CFR 1910.132(d)(1)(i): Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

The employer has not identified all work place hazards for its cannabis extraction laboratory thereby ensuring PPE was selected for use by each affected employee. The types of PPE that will protect each affected employee from the hazards identified in the hazard assessment had not been identified because a job hazard analysis has not been conducted..

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Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

Citation 2 Item 4 a Type of Violation: **Serious**

29 CFR 1910.134(c)(1): In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions of this section, as applicable:

New Mexicann did not develop and implement a written Respiratory Protection program with worksite-specific procedures for employees required to use respirators.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$9,443.00

State of New Mexico
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Citation and Notification of Penalty

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

Citation 2 Item 4 b Type of Violation: **Serious**

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.

New Mexicann did not provide medical evaluations for employees required to use respirators prior to initial use of respirators .

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

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Proposed Penalty:

May 04, 2021
\$0.00

State of New Mexico
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Issuance Date: 04/13/2021

Citation and Notification of Penalty

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

Citation 2 Item 4 c Type of Violation: **Serious**

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.

New Mexicann does not provide a fit test for employees required to use respirators.

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\$0.00

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Issuance Date: 04/13/2021

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Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

Citation 2 Item 4 d Type of Violation: **Serious**

29 CFR 1910.134(k)(1): The employer shall ensure that each employee can demonstrate knowledge of at least the following:

New Mexicann does not provide information and training for employees required to use respirators.

PROOF OF ABATEMENT:

Date Corrected:

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\$0.00

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Company Name: New MexiCann Natural Medicine
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Citation 2 Item 5 a Type of Violation: **Serious**

29 CFR 1910.1200(e)(1):Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:

New Mexicann has not developed and implemented a written Hazard Communication program for affected employees exposed to the chemical hazards associated with cannabis extraction. Employees are exposed to chemical hazards while working with various flammable and corrosive/irritant chemicals as stated in the safety data sheets of the chemicals used by employees of New Mexicann.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$9,443.00

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Citation 2 Item 5 b Type of Violation: **Serious**

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.

New Mexicann has not provided employees exposed to chemical hazards during the cannabis extraction procedures with Hazard Communication training.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$0.00

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Citation and Notification of Penalty

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

Citation 3 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1904.4(a):Basic requirement. Each employer required by this Part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

New Mexicann does not have records for injury and illness logs for the years 2018,2019, and partial year 2020. The establishment has not been keeping track of employee injuries and illnesses.

PROOF OF ABATEMENT:

Date Corrected:

Describe Corrective Action:

Date By Which Violation Must be Abated:
Proposed Penalty:

May 04, 2021
\$700.00

State of New Mexico
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Issuance Date: 04/13/2021

Citation and Notification of Penalty

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505

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

Gregory J. Marquez
Program Manager

State of New Mexico
Environment Department
Occupational Health and Safety Bureau
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INVOICE

Company Name: New MexiCann Natural Medicine
Inspection Site: 1594 San Mateo Lane Santa Fe, NM 87505
Issuance Date: 04/13/2021

Summary of Penalties for Inspection Number: 1500772

Citation 1 Item 1, Willful-Serious	\$94,432.80
Citation 2 Item 1, Serious	\$9,443.00
Citation 2 Item 2, Serious	\$9,443.00
Citation 2 Item 3, Serious	\$9,443.00
Citation 2 Item 4a, Serious	\$9,443.00
Citation 2 Item 4b, Serious	\$0.00
Citation 2 Item 4c, Serious	\$0.00
Citation 2 Item 4d, Serious	\$0.00
Citation 2 Item 5a, Serious	\$9,443.00
Citation 2 Item 5b, Serious	\$0.00
Citation 3 Item 1, Other-than-Serious	\$700.00

TOTAL PROPOSED PENALTIES: \$142,347.80

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.

Gregory J. Marquez, Program Manager

Date