

U.S. Department of Labor
Occupational Safety and Health Administration
1033 La Posada
Suite 375
Austin, TX 78752
Phone: 512-374-0271 Fax: 512-374-0086



Citation and Notification of Penalty

To:
BWay Corporation
and its successors
1591 Harvey Mitchell Parkway
Bryan, TX 77803

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015

Inspection Site:
1591 N. Harvey Mitchell Pkwy
Bryan, TX 77803

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 either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. 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.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

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 Area Director 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.**

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions do not exist.

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

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 U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

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 U.S. Department of Labor Area Office 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.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 07/30/2015. The conference will be held by telephone or at the OSHA office located at 1033 La Posada, Suite 375, Austin, TX 78752 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1037287

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803
Issuance Date: 07/30/2015

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1033 La Posada, Suite 375, Austin, TX 78752**

Citation Number 1 Item Number 1a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 1a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 1b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 1c was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 2a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 2b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 3a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 3b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 Item Number 4 was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

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, including severe burns, in that employees were exposed to the hazards of dust explosion, deflagration, or other fire hazards where fugitive combustible polyethylene dust had the potential to become airborne and combine with an ignition source:

In the injection back alley, on or about February 9, 2015 and at times prior thereto and thereafter, the employer did not utilize methods to ensure that Class II combustible polyethylene dust generated by grinding operations was not allowed to escape from machinery and that work areas around grinders were kept free of fugitive combustible dust that was likely to ignite or explode, exposing employees to the hazards of dust explosion, deflagration, or other fire hazards.

Among other methods, one feasible and acceptable abatement method to correct this hazard is to conduct a process hazard analysis of the facility, the processes, and the associated fire or explosion hazards by an individual knowledgeable about explosive polyethylene dusts, follow-up on any recommendations provided, and comply with applicable standards issued by the National Fire Protection Association (NFPA) including NFPA 654, "Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids (2013), including Chapter 7, which requires that equipment be maintained and operated in a manner that minimizes escape of dust, and Chapter 8, which requires that regular cleaning frequencies be established for walls, floors, and horizontal surfaces to minimize dust accumulations within operating areas of the facility.

Date By Which Violation Must be Abated: 08/07/2015
Proposed Penalty: \$5000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

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

29 CFR 1910.22(a)(1): All places of employment, passageways, storerooms or service rooms were not kept clean and orderly or in a sanitary condition.

In the injection back alley, on or about February 9, 2015 and at times prior thereto and thereafter, where employees were operating powered grinding machinery, the employer did not ensure that surfaces were kept free of hazardous accumulations of combustible polyethylene dust, exposing employees to the hazards of dust explosion, deflagration, or other fire hazards. Surfaces of machinery, electrical conduit, electrical boxes, transformer(s), overhead pipes, structural steel beams, and other building structural members were covered in hazardous accumulations of combustible dust ranging from 1/32 inch to more than 2 inches in depth.

Date By Which Violation Must be Abated:

08/07/2015

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

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

29 CFR 1910.307(c): Equipment, wiring methods, and installations of equipment in hazardous (classified) locations were not intrinsically safe, approved for the hazardous (classified) location, or safe for the hazardous (classified) location:

In the injection back alley, on or about February 9, 2015 and at times prior thereto and thereafter, where employees were recycling scrap polyethylene pails and covers using powered grinding machinery, combustible polyethylene dust was suspended in air during normal operations, and appreciable quantities had accumulated on and around electrical equipment and installations including, but not limited to, general purpose wiring, busway-mounted disconnect switches, outlet receptacles, toggle switch boxes, open motor fan(s), electric motors, and transformer(s), exposing employees to the hazards of dust explosion, deflagration, or other fire hazards.

Date By Which Violation Must be Abated:

08/07/2015

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.132(a): Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, was not provided, used, and maintained in a sanitary and reliable condition wherever it was necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact:

In the outside utility area and chiller areas, on or about February 9, 2015 and at times prior thereto, the employer did not ensure that appropriate clothing for chemical splash protection was worn by employee(s) while pumping corrosive Nalco water treatment chemicals/pesticides into secondary containers and adding concentrates to chillers, exposing employees to contact hazards of corrosive chemicals and skin absorption hazards of toxic biocides.

Date By Which Violation Must be Abated:	08/05/2015
Proposed Penalty:	\$5000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

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

29 CFR 1910.132(f)(1)(i): The employer did not provide training to each employee who is required by this section to use PPE on knowing when PPE is necessary:

In the outside utility area and chiller areas, on or about February 9, 2015 and at times prior thereto, the employer did not ensure that employees were aware of the necessity for use of appropriate protective clothing for chemical splash protection while pumping corrosive Nalco water treatment chemicals/pesticides into secondary containers and adding concentrates to chillers, exposing employees to contact hazards of corrosive chemicals and skin absorption hazards of toxic biocides.

Date By Which Violation Must be Abated:

08/05/2015

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.133(a)(1): The employer did not ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation:

In the outside utility area, on or about February 9, 2015 and at times prior thereto, safety glasses with sideshields and impact-resistant faceshields were provided in lieu of chemical splash protection for eyes and/or face for employee(s) who were pumping corrosive Nalco water treatment chemicals/pesticides into secondary containers and adding concentrates to chillers, exposing employees to contact hazards of corrosive chemicals.

Date By Which Violation Must be Abated: 08/05/2015
Proposed Penalty: \$5000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

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

29 CFR 1910.151(c): Where employees were exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body were not provided within the work area for immediate emergency use:

In the outside utility area, on or about February 9, 2015 and at times prior thereto, facilities for quick drenching or flushing of the eyes and body were not provided for employee(s) who were pumping corrosive Nalco water treatment chemicals/pesticides into secondary containers and pouring concentrates into chillers, exposing employees to contact hazards of corrosive chemicals.

Date By Which Violation Must be Abated:

08/07/2015

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1037287
Inspection Date(s): 02/09/2015 - 07/21/2015
Issuance Date: 07/30/2015



Citation and Notification of Penalty

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803

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

29 CFR 1910.1200(h)(3)(ii): Employee training did not include the physical and health hazards of the chemicals in the work area:

At the inspection site, where employees were manufacturing polyethylene pails and covers, employees were not informed of the health hazards of emissions associated with thermal processing of polyethylene including smoke produced while clearing molding machines during outages, exposing employees to the inhalation hazards of hydrocarbons and hydrocarbon oxidation products including, but not limited to, p-Dichlorobenzene, classified by IARC as Group 2B "possibly carcinogenic to humans", and Butyraldehyde (Butanal) and n-Valeraldehyde (Pentanal) (eye, skin, and respiratory tract irritants).

Date By Which Violation Must be Abated:
Proposed Penalty:

08/11/2015
\$3000.00


R. Casey Perkins, CSP
Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration
1033 La Posada
Suite 375
Austin, TX 78752
Phone: 512-374-0271 Fax: 512-374-0086



INVOICE / DEBT COLLECTION NOTICE

Company Name: BWay Corporation
Inspection Site: 1591 N. Harvey Mitchell Pkwy, Bryan, TX 77803
Issuance Date: 07/30/2015

Summary of Penalties for Inspection Number	1037287
Citation 1, Serious	\$18000.00
TOTAL PROPOSED PENALTIES	\$18000.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.


R. Casey Perkins, CSP
Area Director

7/30/2015
Date