

U.S. Department of Labor Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, NY 13212



05/26/2022

Mr. Ryan James
McDowell and Walker, Inc.
11 Mill Street
Afton, NY 13730

Dear Mr. James:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (315) 451-0808.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

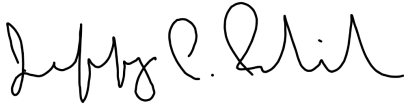
As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Prebish". The signature is fluid and cursive, with the first name "Jeff" and last name "Prebish" clearly distinguishable.

Jeff Prebish, MS, CSP, CIH
Area Director

Enclosures

U.S. Department of Labor

Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, NY 13212



Citation and Notification of Penalty

To:
McDowell and Walker, Inc.
and its successors
P.O. BOX 388
Afton, NY 13730

Inspection Number: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022

Inspection Site:
11 Mill Street
Afton, NY 13730

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 by calling (315) 451-0808. 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 at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type "OSHA" in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. 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 05/26/2022. The conference will be held by telephone or at the OSHA office located at 3300 Vickery Road, North Syracuse, NY 13212 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1566574

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730
Issuance Date: 05/26/2022

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, 3300 Vickery Road, North Syracuse, NY 13212.**

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

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

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

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

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

Citation Number 1 and Item Number 5 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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1566574

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730
Issuance Date: 05/26/2022

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, 3300 Vickery Road, North Syracuse, NY 13212.**

Citation Number 1 and Item Number 6 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 7 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 8a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 8b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 9 was corrected on _____
By (Method of Abatement): _____

Citation Number 2 and Item Number 1 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.

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CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1566574

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730
Issuance Date: 05/26/2022

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, 3300 Vickery Road, North Syracuse, NY 13212.**

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

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

Citation Number 3 and Item Number 2 was corrected on _____
By (Method of Abatement): _____

Citation Number 3 and Item Number 3 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

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

Inspection Number: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.22(a)(1): The employer did not ensure that all places of employment, passageways, storerooms, service rooms, and walking-working surfaces are kept in a clean, orderly, and sanitary condition.

a) 11 Mill Street, Afton NY 13730: On or about 2/22/2022, an employee accessing the Repair shop storage, located on the mezzanine, was exposed to a trip hazard when the employer failed to ensure the access stairway was kept clear. Boxes of varying sizes were located on the stairs.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$4,351.00

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



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.28(b)(3)(ii): The employer did not ensure that each employee be protected from tripping into or stepping into or through any hole that is less than 4 feet (1.2 m) above a lower level by covers or guardrail systems.

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, employees were exposed to a receiving pit that was less than 4 feet above a lower level covered by grates with an approximate width of 4 inches. The uncovered receiving pit was located outside of the Mill Building. The receiving pit was also located in the direct path employees used to travel to silo/bins and rail car hookup areas.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$5,801.00

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

Inspection Number: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.37(a)(3): Exit route(s) were not kept free and unobstructed:

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, while employee worked in the repair shop, the exit route in the repair shop was blocked by large pieces of equipment and vehicle parts on the floor, exposing employees to a trip hazard and obstructing their path to the exit.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$4,351.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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 4 a Type of Violation: **Serious**

29 CFR 1910.212(a)(1): One or more methods of machine guarding was not provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks:

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, The drill press in the repair shop had a guard that was either broken off or removed, exposing employees to flying chips or sparks.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$4,351.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.212(b): Machine(s) designed for fixed location(s) were not securely anchored to prevent walking or moving:

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, the drill press in the repair shop was not anchored or bolted to the ground.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$0.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.272(e)(1): The employer did not provide training to new employees prior to starting work that job assignments would expose them to hazards in the grain handling facilities:

a) 11 Mill Street, Afton, NY 13730: On or about 12/2/2021, employees working as main baggers and drivers in the grain receiving, storage, processing and bagging areas of a feed mill had received no training on the hazards of grain handling prior to the beginning their job duties, which included entering confined spaces, loading feed into trucks, bagging feed, transporting feed into the bins, and housekeeping duties related to grain handling operations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$7,252.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1910.272(g)(1)(i): The employer did not issue a permit for entering bins, silos or tanks in the grain handling facility before the employees entered the bins, silos, or tanks

a) 11 Mill Street, Afton, NY 13730: On or about 11/29/2021, the employer directed an employee to enter the bin known as J-1, or Jumbo, without first issuing a permit.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$10,151.00

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



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.272(g)(1)(ii): Prior to entry, all mechanical, electrical, hydraulic, and pneumatic equipment which presented a danger to employees inside grain storage structures in the grain handling facility were not disconnected, locked out and tagged.

a) 11 Mill Street, Afton, NY 13730: On or about 11/29/2021, the employer failed to disconnect, lock out, and tag out feed transport equipment while an employee was inside the grain storage bin known as J-1, or Jumbo; and as a result, the feed transport equipment was activated while the employee was inside of Jumbo.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$10,151.00

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

Inspection Number: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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 8 a Type of Violation: **Serious**

29 CFR 1910.272(j)(1):The employer did not develop and implement a written housekeeping program that established the frequency and the method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, the employer's written housekeeping program did not establish the frequency and the method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$7,252.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 1 Item 8 b Type of Violation: **Serious**

29 CFR 1910.272(j)(2):The employers written housekeeping program for grain elevators did not address fugitive grain dust accumulations at priority housekeeping areas.

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/22, Employer 's written housekeeping program did not address fugitive grain dust accumulations at priority housekeeping areas including at least the following:
Floor areas within 35 feet of inside bucket elevators;
Floors of enclosed areas containing grinding equipment;
Floors of contained areas containing grain driers located inside the facility.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$0.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 1 Item 9 Type of Violation: **Serious**

29 CFR 1910.272(m)(3): A certification record was not maintained of each inspection, performed in accordance with paragraph (m), containing the date of the inspection, the name of the person who performed the inspection and the serial number, or other identifier, of the equipment specified in paragraph (m)(1)(i) of this section that was identified.

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, the employer's certification records for inspections performed on equipment including but not limited to the grain bin elevator and pellet mill did not include the full date of the inspections or the name of the employee(s) who performed the inspection(s).

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$4,351.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.272(g)(2): When entering the grain handling facility bins, silos, or tanks from the top, employees did not wear a body harness with lifeline, or use a boatswain's chair that met the requirements of Subpart D, 29 CFR 1910.28(j)

a) 11 Mill Street, Afton, NY 13730: On or about 11/29/2021, the employer directed an employee to enter the bin known as J-1, or Jumbo, without providing a body harness with lifeline or boatswain's chair, exposing the employee to engulfment hazards.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$72,514.00

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: 1566574
Inspection Date(s): 12/02/2021 – 05/25/2022
Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 2 Item 2 Type of Violation: **Willful - Serious**

29 CFR 1910.272(g)(4): The employer did not provide equipment for rescue operations, which was specifically suited for the bin, silo, or tank being entered.

a) 11 Mill Street, Afton, NY 13730: On or about 11/29/2021, the employer directed an employee to enter the bin known as J-1, or Jumbo, without providing the employee with equipment for rescue operations, specifically suited for the bin, exposing the employee to engulfment hazards.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$72,514.00

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

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Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.157(c)(1): Portable fire extinguishers were not mounted, located and identified so that they were readily accessible without subjecting the employees to injuries:

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, the fire extinguisher in the warehouse was blocked by pallets of bagged product, exposing employees who may need to access the fire extinguisher to a trip hazard.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$0.00

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

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Issuance Date: 05/26/2022



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

Citation 3 Item 2 Type of Violation: **Other-than-Serious**

29 CFR 1910.303(g)(1): Sufficient access and working space was not provided and maintained about all electric equipment (operating at 600 volts, nominal, or less to ground) to permit ready and safe operation and maintenance of such equipment:

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, the electrical panel box in the warehouse was blocked by pallets of product, exposing employees to a trip hazard, and making employees unable to access panel box.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$0.00

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



Citation and Notification of Penalty

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730

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

29 CFR 1910.1200(f)(6)(ii): Except as provided in 29 CFR 1910.1200(f)(7) and 29 CFR 1910.1200(f)(8), the employer did not ensure that each container of hazardous chemicals in the workplace was labeled, tagged or marked with the product identifier and words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals and which, in conjunction with the other information immediately available to employees under the hazard communication program, would provide employees with the specific information regarding the physical and health hazards of the hazardous chemical

a) 11 Mill Street, Afton, NY 13730: On or about 2/22/2022, in the repair shop, employees were exposed to an unlabeled bottle containing what the employer described as "lubricant." The bottle itself and the immediate area where it was located offered no indication whether it was a beverage meant for human consumption or a chemical used for the purposes of repairing vehicles.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

June 15, 2022
\$0.00

A handwritten signature in black ink, appearing to read "Jeff Prebish".

Jeff Prebish, MS, CSP, CIH
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
3300 Vickery Road
North Syracuse, NY 13212



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: McDowell and Walker, Inc.
Inspection Site: 11 Mill Street, Afton, NY 13730
Issuance Date: 05/26/2022

Summary of Penalties for Inspection Number: 1566574

Citation 1 Item 1, Serious	\$4,351.00
Citation 1 Item 2, Serious	\$5,801.00
Citation 1 Item 3, Serious	\$4,351.00
Citation 1 Item 4a, Serious	\$4,351.00
Citation 1 Item 4b, Serious	\$0.00
Citation 1 Item 5, Serious	\$7,252.00
Citation 1 Item 6, Serious	\$10,151.00
Citation 1 Item 7, Serious	\$10,151.00
Citation 1 Item 8a, Serious	\$7,252.00
Citation 1 Item 8b, Serious	\$0.00
Citation 1 Item 9, Serious	\$4,351.00
Citation 2 Item 1, Willful - Serious	\$72,514.00
Citation 2 Item 2, Willful - Serious	\$72,514.00
Citation 3 Item 1, Other-than-Serious	\$0.00
Citation 3 Item 2, Other-than-Serious	\$0.00
Citation 3 Item 3, Other-than-Serious	\$0.00

TOTAL PROPOSED PENALTIES: \$203,039.00

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 at www.pay.gov. At the top of the pay.gov homepage, type "OSHA" in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. 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.

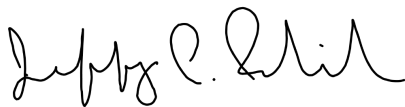
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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 two 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.



Jeff Prebish, MS, CSP, CIH

Area Director

May 26, 2022

Date