

**U.S. Department of Labor** Occupational Safety and Health Administration  
444 Regency Parkway Drive  
Suite 303  
Omaha, NE 68114



04/25/2024

Rail Modal Group LLC  
and its successors  
12 Cornell Road  
Latham, NY 12110

Dear Employer:

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), 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 (402) 553-0171.

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](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,



**Matthew Thurlby**  
Area Director

Enclosures

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
444 Regency Parkway Drive  
Suite 303  
Omaha, NE 68114



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## Citation and Notification of Penalty

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**To:**  
Rail Modal Group LLC  
and its successors  
12 Cornell Road  
Latham, NY 12110

**Inspection Number:** 1708511  
**Inspection Date(s):** 11/06/2023 - 04/25/2024  
**Issuance Date:** 04/25/2024

**Inspection Site:**  
549 East County Road T  
Fremont, NE 68025

*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 (402) 553-0171. 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](http://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](http://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 04/25/2024. The conference will be held by telephone or at the OSHA office located at 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114 on \_\_\_\_\_ at

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1708511**

Company Name: Rail Modal Group LLC  
Inspection Site: 549 East County Road T, Fremont, NE 68025  
Issuance Date: 04/25/2024

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, 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114.**

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ 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: Rail Modal Group LLC**  
**Inspection Site: 549 East County Road T, Fremont, NE 68025**

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### Citation 1 Item 1    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:

On or about December 29, 2023, at a worksite located at 549 East County Road T, Fremont, Nebraska, the employer exposed employees to the recognized struck-by, caught-under and caught-between hazards associated with working on foot near moving commercial trucks. An employee was struck-by and run over by a Mack® 18-wheeler commercial motor vehicle while directing congested traffic in the yard.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Among other methods, feasible and acceptable methods of abatement include, but are not limited to:

1. Conduct a daily site and job safety and health analysis to anticipate, recognize and evaluate the potential hazards associated with workplace processes/tasks/activities while commercial trucks are operating in the yard and determine if adequate controls are in place to mitigate identified hazards. Analysis should include, but not be limited to evaluations of:

- i. Intermodal shipping container reach trucks to determine current condition and continued serviceability and
- ii. Yard ground conditions to determine current condition, weight-bearing integrity during inclement weather (e.g., containers on unreinforced portions of the yard during or after rain), and continued serviceability.

2. Develop, implement, and communicate yard safety and traffic management plan that includes but is not limited to:

- i. Direction(s) for ramp entry e.g., barriers, lanes, signage, waiting areas,
- ii. Communication plan for shag trucks, including 3rd party shag trucks, and
- iii. Contingency plan/procedures to relieve yard congestion, including congestion caused by storage of intermodal shipping containers, third-party shag trucks, and inoperable reach trucks,
- iv. Prohibiting employees from working in places where it is unsafe to work, including clearly designating

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:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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places where it is unsafe to work, and

v. Prohibiting employees from directing traffic from the ground, or alternatively, training employees in the proper methods for directing traffic to avoid being struck by vehicles.

3. Develop, implement, and communicate appropriate shag truck driver training including but not limited to that addresses yard rules and procedures for safety and for decreasing traffic congestion, including direction of travel, use of waiting areas, coordination between vehicles, and locations where employees may be working on foot.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 15, 2024  
\$15,970.00

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

**Inspection Number:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.67(c)(2)(v): A personal fall arrest or travel restraint system that meets the requirements in 29 CFR part 1910, subpart I, shall be worn and attached to the boom or basket when working from an aerial lift:

On or about November 29, 2023, Employees engaged in reach truck maintenance and refrigerator pad operations at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska, were exposed to fall hazards in that the employer failed to ensure employees working from the articulating boom lift were protected from falls greater than 9 feet to the next lowest level.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 15, 2024  
\$15,970.00

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:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.132(f)(1): The employer did not provide training to each employee who is required by this section to use personal protective equipment:

On or about November 29, 2023, employees engaged in reach truck maintenance and refrigerator pad operations at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska, were exposed to fall hazards in that the employer failed to provide employees working from the articulating boom lift instruction on:

- i. When fall protection PPE is required,
- ii. What fall protection PPE is required,
- iii. How to properly don, doff, adjust and wear fall protection PPE,
- iv. The limitations off fall protection PPE, and
- v. The proper care, maintenance, useful life and disposal of fall protection PPE.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 30, 2024
Proposed Penalty:	\$15,970.00



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.146(c)(3): If the employer decides that its employees will not enter permit spaces, the employer shall take effective measures to prevent its employees from entering the permit spaces and shall comply with paragraphs (c)(1), (c)(2), (c)(6), and (c)(8) of this section:

On or about November 8, 2023, employees engaged in grain and bean activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to potential atmospheric and engulfment hazards in that the employer failed to:

- i. Adequately identify all permit required confined spaces such as but not limited to the grain bins,
- ii. Take effective measures to prevent entry into the boot pit, and
- iii. Inform appropriate employees of the existence, location, and danger of all permit required confined spaces.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 30, 2024
Proposed Penalty:	\$11,409.00

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

**Inspection Number:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.178(a)(6): The user shall see that all nameplates and markings are in place and are maintained in a legible condition:

On or about November 6, 2023, employees engaged in servicing intermodal containers and refrigerated container generators sets at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to struck-by and crush hazards in that the nameplate containing information such as but not limited to capacity data affixed to the sit-down forklift such as but not limited to load capacity data was not affixed to the sit-down forklift.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citation.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$11,409.00

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: Rail Modal Group LLC**  
**Inspection Site: 549 East County Road T, Fremont, NE 68025**

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 6 a** Type of Violation: **Serious**

29 CFR 1910.178(l)(1)(i): The employer shall ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation specified in this paragraph (l):

On or about November 8, 2023, Employees engaged in intermodal container handling, maintenance and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to a struck-by hazard in that the employer failed to adequately train and evaluate employees prior to equipment operation. Instances of inadequate training included but were not limited to:

- i. Formal training,
- ii. Training program content such as operating instructions, warnings, or precautions listed in the operator's manual, and the requirements of the standard, and
- iii. Evaluation to determine the employee has successfully completed training.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 30, 2024
Proposed Penalty:	\$15,970.00

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:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.178(l)(6): Certification. The employer shall certify that each operator has been trained and evaluated as required by this paragraph (l). The certification shall include the name of the operator, the date of the training, the date of the evaluation, and the identity of the person(s) performing the training or evaluation:

On or about November 8, 2023, Employees engaged in intermodal container handling, maintenance, and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to struck-by hazards in that the employer failed to certify that each powered industrial truck operator was adequately trained and evaluated employees prior to equipment operation. Instances of equipment operated without certification of training include but are not limited to:

- i. Caterpillar forklift
- ii. Taylor reach stacker
- iii. TEREX reach stacker

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: **May 30, 2024**  
Proposed Penalty: **\$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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.178(m)(5)(i): When a powered industrial truck is left unattended, load engaging means shall be fully lowered, controls shall be neutralized, power shall be shut off, and brakes set. Wheels shall be blocked if the truck is parked on an incline:

On or about January 3, 2024, employees engaged in intermodal container handling, maintenance and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to a struck-by hazard in that the Taylor 150 reach truck was left running unattended for approximately three hours whereby employees walked within 2-3 feet of the forklift whereby employees walked within 2-3 feet of the forklift.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 21, 2024
Proposed Penalty:	\$15,970.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.178(p)(1): If at any time a powered industrial truck is found to be in need of repair, defective, or in any way unsafe, the truck shall be taken out of service until it has been restored to safe operating condition:

On or about December 29, 2023, employees engaged in intermodal container handling activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to crush and struck-by hazards in that the employer failed to remove Terex reach stacker #4 out of service when it was found operating with a cracked windshield.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 15, 2024  
\$15,970.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.178(q)(1): Any power-operated industrial truck not in safe operating condition shall be removed from service. All repairs shall be made by authorized personnel:

On or about November 6th and 29th, 2023, Employees engaged in intermodal container handling, maintenance and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to caught-in and struck-by hazards in that the employees performing Terex and Taylor reach truck servicing were not authorized personnel trained to complete maintenance/repairs.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 15, 2024  
\$15,970.00

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:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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**Citation 1 Item 10** Type of Violation: **Serious**

29 CFR 1910.178(q)(5): All parts of any such industrial truck requiring replacement shall be replaced only by parts equivalent as to safety with those used in the original design:

On or about January 5, 2024, employees engaged in intermodal container handling, maintenance and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to struck-by hazards in that the employer failed to ensure replacement parts safely interfaced with parts of the original design. Instances included but are not limited to:

- i. The use of vice grips, screw drivers, and other tools to replace the manufactured installed operational controls in the Taylor 150 and
- ii. The replacement of the manufactured installed boom on the Terex #04 truck with the boom off an inoperable Hyster truck resulting in unsecured lines, cables and cords.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 15, 2024
Proposed Penalty:	\$15,970.00



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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**Citation 1 Item 11** Type of Violation: **Serious**

29 CFR 1910.178(q)(7): Industrial trucks shall be examined before being placed in service, and shall not be placed in service if the examination shows any condition adversely affecting the safety of the vehicle. Such examination shall be made at least daily. Where industrial trucks are used on a round-the-clock basis, they shall be examined after each shift. Defects when found shall be immediately reported and corrected:

On or about November 8, 2023, Employees engaged in intermodal container handling, maintenance, and/or servicing activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to struck-by hazards in that the employer failed to ensure employees were inspecting the forklifts prior to operations the result of which was evident in that defects found during OSHA's inspection were not previously identified, documented and corrected, before placing the vehicles back into service. Instances of deficiencies found included but are not limited to:

- i. A missing data plate on Caterpillar sit-down forklift.
- ii. The replacement of manufactured installed control levers on the Taylor 150 truck with vice grips, screw drivers, and other tools.
- iii. The replacement of the boom on the Terex #04 with a boom off an inoperable Hyster truck resulting in unsecured cords, cables and hoses.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$15,970.00

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

Inspection Number: 1708511  
Inspection Date(s): 11/06/2023 -  
Issuance Date: 04/25/2024



**Citation and Notification of Penalty**

**Company Name: Rail Modal Group LLC**  
**Inspection Site: 549 East County Road T, Fremont, NE 68025**

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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 12 a      Type of Violation: **Serious**

29 CFR 1910.219(d)(1): Guarding. Pulleys, any parts of which are seven (7) feet or less from the floor or working platform, shall be guarded in accordance with the standards specified in paragraphs (m) and (o) of this section. Pulleys serving as balance wheels (e.g., punch presses) on which the point of contact between belt and pulley is more than six feet six inches (6 ft. 6 in.) from the floor or platform may be guarded with a disk covering the spokes:

On or about November 8, 2023, Employees engaged in grain and bean activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to caught-in hazards in that employees accessing the tunnel were not protected from an unguarded pulley less than seven feet from the floor.

Date By Which Violation Must be Abated:  
Proposed Penalty:

Corrected During Inspection  
\$11,409.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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Citation 1 Item 12 b      Type of Violation: **Serious**

29 CFR 1910.219(e)(3)(i): Vertical and inclined belts shall be enclosed by a guard conforming to standards in paragraphs (m) and (o) of this section:

On or about November 8, 2023, Employees engaged in grain and bean activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to caught-in hazards in that employees accessing the tunnel were not protected from an unguarded belt.

Date By Which Violation Must be Abated:  
Proposed Penalty:

Corrected During Inspection  
\$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: Rail Modal Group LLC**  
**Inspection Site: 549 East County Road T, Fremont, NE 68025**

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**Citation 1 Item 13** Type of Violation: **Serious**

29 CFR 1910.272(e)(1)(ii): Current employees, and new employees prior to starting work in the grain handling facility, shall be trained in the specific procedures and safety practices applicable to their job tasks including but not limited to cleaning procedures for grinding equipment, clearing procedures for choked legs, housekeeping procedures, hot work procedures, preventive maintenance procedures and lock-out/tag-out procedures.

On or about November 6, 2023, Employees performing elevator housekeeping and/or maintenance activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to amputation, caught-in, and fire hazards in that the employer did not train employees on specific procedures and safety practices applicable to their job tasks. Instances included but were not limited to:

- i. housekeeping program such as implementation and cleaning procedures,
- ii. lockout/tagout procedures, and
- iii. preventative maintenance procedures, such as implementation and frequency.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: **May 30, 2024**  
Proposed Penalty: **\$15,970.00**

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



### **Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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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 14 a          Type of Violation: **Serious**

29 CFR 1910.272(m)(1)(i): Regularly scheduled inspections of at least the mechanical and safety control equipment associated with dryers, grain stream processing equipment, dust collection equipment including filter collectors, and bucket elevators:

On or about November 6, 2023, Employees performing elevator housekeeping and/or maintenance activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to ignition sources and fire hazards in that the employer did not determine the frequency for and ensure completion of grain elevator required mechanical and safety control equipment inspections.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

#### **ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 15, 2024
Proposed Penalty:	\$15,970.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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Citation 1 Item 14 b      Type of Violation: **Serious**

29 CFR 1910.272(m)(3) The employer did not maintain a certification record of each preventive maintenance inspection, performed in accordance with this 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 inspected.

On or about November 6, 2023, Employees performing elevator housekeeping and/or maintenance activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to ignition sources and fire hazards in that the employer did not determine develop, document, and/or maintain certification record(s) for each required grain elevator mechanical and safety control equipment inspection.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 30, 2024
Proposed Penalty:	\$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: Rail Modal Group LLC**  
**Inspection Site: 549 East County Road T, Fremont, NE 68025**

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**Citation 1 Item 15** Type of Violation: **Serious**

29 CFR 1910.272(m)(4): The employer shall implement procedures for the use of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. Such locks and tags shall be removed in accordance with established procedures only by the employee installing them or, if unavailable, by his or her supervisor:

On or about November 6, 2023, Employees performing grain handling operations such as housekeeping and/or maintenance activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to caught between and electrical hazards in that the employer failed to implement the principles of Lockout and/or Tag Out where employees are making repairs and cleaning equipment with hazardous stored/residual energy sources. Instances of failure to implement include but are not limited to:

- i. Multiple employees working on replacing buckets on the bucket conveyor with only one lock applied to the isolation device failing to meet the requirements of group LOTO.
- ii. Multiple employees working on unjamming/unclogging west boot pit without having established procedures on the application and removal of locks and/or tags by the employees installing them.

Abatement certification and abatement documentation are required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	May 30, 2024
Proposed Penalty:	\$15,970.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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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 16 a      Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): Employer had not developed or implemented a written hazard communication program which at included the requirements outlined in 29 CFR 1910.1200(e)(1)(i) and (e)(1)(ii):

On or about November 8, 2023, Employees engaged in intermodal container handling activities at Rail Modal Group located at 549 East County Road T, Fremont Nebraska were exposed to chemical hazards in that the employer failed to maintain a current written hazard communication program that included but was not limited to a list of hazardous chemicals and availability of Safety Data Sheets for chemicals known to be present.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$11,409.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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Citation 1 Item 16 b      Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): The employer did not maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and did not ensure that they were readily accessible during each work shift to employees when they were in their work area(s):

On or about November 8, 2023, Employees engaged in intermodal container handling activities at Rail Modal Group located at 549 East County Road T, Fremont Nebraska were exposed to chemical hazards in that the employer failed to ensure safety data sheets were available and accessible to all employees on every shift, and that employees were aware of their location(s).

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$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:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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**Citation 1 Item 17** 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:

On or November 8, 2023, Employees engaged in intermodal container handling activities at Rail Modal Group LLC located at 549 East County Road T, Fremont Nebraska were exposed to chemical hazards in that the employer failed to provide effective training on the hazardous chemicals and/or the hazards in the workplace. Instances of inadequate training included but were not limited to:

- i. Operators and Maintenance employees adding Hydraulic fluids for powered industrial and shag trucks.
- ii. Operators and Maintenance employees using Ethanol starter fluids for cold starting powered industrial and shag trucks.
- iii. Maintenance employees using chain lubricant for powered industrial trucks.
- iv. Grain Elevator Operators and Maintenance employees using bearing grease in the elevator maintenance.
- v. Maintenance employees using acetylene for welding

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$11,409.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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Citation 2 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1904.39(a)(2): Basic Requirement. Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA:

On or about December 30, 2023, the employer for Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska failed to report an employee in-patient hospitalization within 24-hours. The incident occurred and the employer became aware of the hospitalization on December 29, 2023, however, the employer did not report the incident until January 2, 2024.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$11,409.00

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:** 1708511  
**Inspection Date(s):** 11/06/2023 -  
**Issuance Date:** 04/25/2024



**Citation and Notification of Penalty**

**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025

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

29 CFR 1910.141(a)(5): Vermin control. Every enclosed workplace shall be so constructed, equipped, and maintained, so far as reasonably practicable, as to prevent the entrance or harborage of rodents, insects, and other vermin. A continuing and effective extermination program shall be instituted where their presence is detected:

On or about November 6, 2023, employees performing elevator housekeeping and/or maintenance activities at Rail Modal Group LLC located at 549 East County Road T, Fremont, Nebraska were exposed to vector-borne diseases in that the employer failed to prevent the harborage of mosquitoes in grain elevator manlift.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:  
Proposed Penalty:

May 30, 2024  
\$1,281.00

  
**Matthew Thurlby**  
Area Director

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



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INVOICE /  
DEBT COLLECTION NOTICE

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**Company Name:** Rail Modal Group LLC  
**Inspection Site:** 549 East County Road T, Fremont, NE 68025  
**Issuance Date:** 04/25/2024

Summary of Penalties for Inspection Number: 1708511

Citation 1 Item 1, Serious	\$15,970.00
Citation 1 Item 2, Serious	\$15,970.00
Citation 1 Item 3, Serious	\$15,970.00
Citation 1 Item 4, Serious	\$11,409.00
Citation 1 Item 5, Serious	\$11,409.00
Citation 1 Item 6a, Serious	\$15,970.00
Citation 1 Item 6b, Serious	\$0.00
Citation 1 Item 7, Serious	\$15,970.00
Citation 1 Item 8, Serious	\$15,970.00
Citation 1 Item 9, Serious	\$15,970.00
Citation 1 Item 10, Serious	\$15,970.00
Citation 1 Item 11, Serious	\$15,970.00
Citation 1 Item 12a, Serious	\$11,409.00
Citation 1 Item 12b, Serious	\$0.00
Citation 1 Item 13, Serious	\$15,970.00
Citation 1 Item 14a, Serious	\$15,970.00
Citation 1 Item 14b, Serious	\$0.00
Citation 1 Item 15, Serious	\$15,970.00
Citation 1 Item 16a, Serious	\$11,409.00
Citation 1 Item 16b, Serious	\$0.00
Citation 1 Item 17, Serious	\$11,409.00
Citation 2 Item 1, Other-than-Serious	\$11,409.00
Citation 2 Item 2, Other-than-Serious	\$1,281.00

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**TOTAL PROPOSED PENALTIES:** **\$261,375.00**

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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](http://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 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.



**Matthew Thurlby**  
Area Director

4/25/2024  
Date