



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
Division of Occupational Safety and Health  
PO Box 44600 • Olympia, Washington 98504-4600

October 25, 2023

BORTON & SONS INC  
2550 Borton Road  
Yakima, WA 98903

OSHA #: 1669604  
Inspection: 317973993  
UBI: 601115448  
Region: 05-Safety  
Inspector ID: T0344  
Reference: 102416983

Dear Employer:

Enclosed are the results of the safety and health inspection of your workplace. This packet contains:

- **Citation Invoice** – The total assessed penalty is \$120,000.00
- **Citation and Notice of Assessment** – Washington Administrative Code (WAC) Violations.
- **Employer Appeal Rights** – You have 15 working days to appeal this citation.

You must immediately post this Citation and Notice of Assessment at or near where the violation(s) occurred, where employees can easily find and read it, or where employees normally receive posted information. All postings must remain until you have corrected all violations, or for seven working days, whichever is longer. “Working day” means a calendar day, except Saturdays, Sundays and all legal state holidays.

Because this inspection is public information, the result will be posted online 30 days after the above date by the Department of Labor & Industries. You may view it at <https://secure.lni.wa.gov/verify> .

**Please visit <https://www.lni.wa.gov/agency/public-disclosure/> if you would like to request a copy of the inspection file. Your choices are:**

- Safety & Health Citation Only
- Safety & Health Brief Inspector Summary Report (short description the inspector writes to summarize the reason for the inspection only – not complete file)
- Safety & Health Detailed Inspection Summary Report (detailed summary of inspection including penalty calculation only – not complete file)
- Safety & Health Citation and Complete Inspection File (The complete legal file which contains the detailed information regarding the inspector’s findings, the citation, and calculation of any penalty. This will be especially helpful if you are contemplating filing an appeal.)

**If you have questions, call the compliance supervisor, Alex Lavanway, at (509) 303-3169.**

Respectfully,

L&I Assistant Director  
Division of Occupational Safety & Health

Enclosure(s)



Washington State Department of  
**Labor & Industries**  
*Division of Occupational Safety and Health*

## Invoice

**Inspection: 317973993**

**UBI:** 601115448  
**Legal Name:** BORTON & SONS INC  
**DBA Name:** BORTON & SONS INC  
**Inspection Site:** S Ahtanum Rd,  
Yakima, WA, 98903

**Issued:** October 25, 2023  
**Opening Conference:** May 8, 2023  
**Closing Conference:** October 9, 2023  
**Inspector ID:** T0344

### Summary of Assessed Penalties Due

The Citation and Notice of Assessment includes a full description of each violation.

Violation Item	Violation Type	WAC	Correction Due Date	Penalty Amount
1-1	Willful Serious	WAC 296-307-08009	Not Applicable	\$60,000.00
1-2	Willful Serious	WAC 296-307-08012(1)(b)	Not Applicable	\$60,000.00
<b><u>Total Penalty Due</u></b>				\$120,000.00

#### PAYMENT INFORMATION

**Payment is due 15 working days from receipt of this citation.**

Make check payable to the Department of Labor and Industries.

Write Inspection number 317973993 on the check and mail to:

**Attn: DOSH Cashier**  
**Department of Labor and Industries**  
**PO Box 44835**  
**Olympia, WA 98504-4835**  
Or deliver to: **Any L&I office**



**Post This Document**

**Citation and Notice of Assessment**  
**Citación por Infracción y Multa Civil**  
**Inspection: 317973993**

**UBI:** 601115448

**Issued:** October 25, 2023

**Legal Name:** BORTON & SONS INC

**Opening Conference:** May 8, 2023

**DBA Name:** BORTON & SONS INC

**Closing Conference:** October 9, 2023

**Inspection Site:** S Ahtanum Rd Yakima, WA 98903

**Inspector ID:** T0344

**Violation 1 Item 1**

Violation Type: Willful Serious

WAC 296-307-08009

The Employer did not ensure that an employee operating an agricultural tractor had the rollover protective structure (ROPS) in the upright position.

It was determined during inspection that the deceased employee operating a tractor equipped with ROPS on a county road, did not have the ROPS in the upright position. The tractor ran over the counterweights, causing it to roll and crushing the employee.

In the event of a rollover accident, employees operating tractors without ROPS are exposed to serious injuries and could result in permanent disability or death.

**Situation not believed to exist any longer. However, if this violation is identified again during future inspections, it may result in repeat or failure to abate violations which may include penalties.**

**Assessed penalty: \$60,000.00**

**Violation 1 Item 2**

Violation Type: Willful Serious

WAC 296-307-08012(1)(b)

The employer did not ensure that employees wear seatbelts while driving an agricultural tractor that required the use of ROPS.

One employee was fatally injured when he was involved in a tractor rollover and was not wearing a seatbelt.

Employees not wearing a seatbelt with ROPS are exposed to the potential for permanently disabling or fatal crushing injuries in the event of tractor rollover.

**Situation not believed to exist any longer. However, if this violation is identified again during future inspections, it may result in repeat or failure to abate violations which may include penalties.**

**Assessed penalty: \$60,000.00**

## For Employers

If you are cited for a violation of Occupational Safety and/or Health rules, you have the right to appeal the citation. **You have 15 working days from the date you receive this citation to appeal.** (RCW 49.17.140(1)) "Working day" means a calendar day, except Saturdays, Sundays and all legal state holidays. Your appeal must be in writing. It may be mailed, faxed, personally delivered or electronically filed. If you electronically file, the Department will send an automated acknowledgement that the appeal was received. **If you do not receive acknowledgement, please ensure you have addressed it to the correct email.** You can also contact the Appeals Program at the number listed below.

For violations classified as serious, willful, repeat serious, or failure to abate serious, an employer must correct the violations by the date listed on the Citation and Notice / Employer's Certification of Abatement form unless a stay of abatement date is requested in the appeal as described on this page. A stay of abatement date means the employer's requirement to abate or correct the hazard is put on hold until the appeal is resolved. All general and repeat general violations under appeal automatically have stay of abatement dates until a final order on those violations has been issued. If you only need an extension of an abatement date, please see the above section entitled, **"If you are unable to fix the hazard(s) by the correction due date(s)"**.

### Your appeal must include:

- Name, address, telephone number, and fax number if available of the employer who is appealing, and for the employer's representative, if any, such as an attorney or interpreter.
- Inspection Number (You will find this nine-digit number in the top right corner of this page.)
- Statement explaining:
  1. What you think is wrong with the citation and any related facts.
  2. How you think the citation should be changed.
  3. What relief you are seeking and why.

**If you are requesting a stay of abatement date for serious, willful, repeat serious or failure to abate serious, you must also include:**

- Each violation and item number for which a stay of abatement date is requested; and
- The reason for the stay of abatement date request.

Note: Employees and/or employee representatives may elect to participate in appeal hearings.

## Posting requirement:

You must post your appeal documents (along with this citation packet) until the appeal is resolved. You must also post all other documents related to this appeal.

## For Employees or Their Representatives

If your employer is cited, you may only appeal the correction due date(s).

### Your appeal must include:

- Your name, address, telephone number, and fax number if available and the same information for anyone who is representing you, if any.
- Inspection number.
- Statement explaining why the correction due date should be changed.

#### Send all appeals to:

**Assistant Director for DOSH**  
**Attn: Appeals Program**  
**PO Box 44604**  
**Olympia, WA 98504-4604**  
Fax to: **(360) 902-5581** or deliver to: **Any L&I office**  
Electronically to: [DOSHAppeals@Lni.wa.gov](mailto:DOSHAppeals@Lni.wa.gov)

For more information call the Appeals Program: **(360) 902-5486.**

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