

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE IOSHA BOARD OF
SAFETY REVIEW

F I L E D

IN THE MATTER OF THE)
COMMISSIONER OF LABOR,)

AUG 25 2011

Complainant,)

Indiana Board of
Safety Review

v.)

CASE DOCKET NO. 10-030

TYSON FOODS, INC.,)

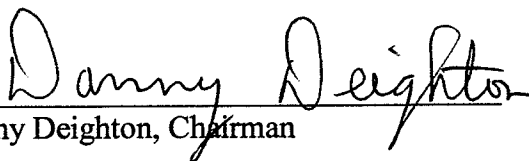
Respondent.)

FINAL ORDER

The parties to the above-referenced proceeding, through their duly authorized representatives, have filed with the Board their Agreed Entry. The Board, being duly advised, now accepts the Respondent's withdrawal of its Notice of Contest, and adopts the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, as its final order in this matter.

IT IS ORDERED that the Respondent's withdrawal of its Notice of Contest is accepted and the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, is adopted as a final order.

Dated: 25 Aug. 2011



Danny Deighton, Chairman

Copies to:

Julie C. Alexander
Legal Counsel
Department of Labor
402 W. Washington St., Rm. W195
Indianapolis, IN 46204

Mark A. Lies II
Seyfarth Shaw LLP
131 South Dearborn St., Ste. 2400
Chicago, IL 60603

STATE OF INDIANA)
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BEFORE THE INDIANA
BOARD OF SAFETY REVIEW

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IN THE MATTER OF THE)
COMMISSIONER OF LABOR,)

Complainant,)

v.)

TYSON FOODS, INC.,)

Respondent.)

CASE DOCKET NO. 10-030

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor and Tyson Foods, Inc., through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

PART I.

1. From April 30, 2010, through October 12, 2010, authorized employee(s) of the Indiana Department of Labor conducted an inspection at the Respondent's jobsite located at 2125 South CR 125 South, Logansport, IN 46947.

2. On November 4, 2010, the Commissioner of Labor issued Safety Order No. 01 (Indiana Department of Labor Inspection No. 314256173) alleging that Tyson Foods, Inc., had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*).

3. On November 29, 2010 Respondent duly and timely petitioned for review of Safety Order No. 01 (Safety Order No. 01 attached hereto as Exhibit A and is incorporated herein).

PART II.

1. Safety Order No. 01 consists of Item Nos.1 through 6.

2. Safety Order No. 01, Item No. 1 alleges a "Serious" violation of 29 CFR 1910.119(m)(1) and assesses a total penalty of Five Thousand Dollars (\$5,000.00).

3. Safety Order No. 1, Item No. 2 alleges a "Serious" violation of 29 CFR 1910.119(m)(2), and assesses a total penalty of Five Thousand Dollars (\$5,000.00).

4. Safety Order No. 01, Item No. 3 alleges a "Serious" violation of 29 CFR 1910.119(m)(3) and assesses a total penalty of Five Thousand Dollars (\$5,000.00).

5. Safety Order No. 01, Item Nos. 4a, 4b, and 4c allege "Serious" violations of 29 CFR 1910.119(m)(4)(ii), 29 CFR 1910.119(m)(4)(iv), and 29 CFR 1910.119(m)(4)(v), respectively, and assess a total penalty of Five Thousand Dollars (\$5,000.00).

6. Safety Order No. 01, Item No. 5 alleges a "Serious" violation of 29 CFR 1910.119(m)(6), and assesses a total penalty of Five Thousand Dollars (\$5,000.00).

7. Safety Order No. 01, Item No. 6 alleges a "Serious" violation of 29 CFR 1910.119(m)(7), and assesses a total penalty of Five Thousand Dollars (\$5,000.00).

8. The total penalty for all violations and all subparts thereunder for Safety Order No. 1 is Thirty Thousand Dollars (\$30,000.00).

PART III.

The Petitioned-for review of Safety Order No. 01 consists of Item No. 1 through 6. All items including subparts remain unchanged except as modified and amended herein.

1. Safety Order No. 1; Item Nos. 1, 3, 4, and 5, are hereby deleted.

2. Safety Order No. 1; Item Nos. 2 is hereby amended from a "Serious" violation classification to "Nonserious" violations. The alleged violation description is hereby amended to state as follows:

"29 CFR 1910.119(m)(2): The investigation of an accident which resulted in, or could reasonably have resulted in a catastrophic

release of a highly hazardous chemical in the workplace, was not initiated promptly or within 48 hours following the incident:

Facility - Tyson Foods, Inc. did not initiate promptly or within 48 hours following the incident each incident resulting in, or which could have reasonably resulted in a catastrophic release of ammonia from the refrigeration process.”

The penalty for Safety Order No. 1, Item No. 2 remains at Five Thousand Dollars (\$5,000.00).

3. Safety Order No. 1; Item No. 6 is hereby amended from a “Serious” violation classification to “Nonserious” violations. The alleged violation description is hereby amended to state as follows:

“29 CFR 1910.119(m)(7): Incident investigation reports were not retained for at least five years:

Facility - Tyson Foods, Inc. did not retain incident investigation reports of releases of ammonia from the refrigeration process.”

The penalty for Safety Order No. 1, Item No. 6 remains at Five Thousand Dollars (\$5,000.00).

4. Respondent agrees to conduct comprehensive refresher training on Process Safety Management for employees located in the State of Indiana who are responsible for maintaining the Process Safety Management Program subject to the Process Safety Management Standard, 29 CFR 1910.119, within 90 days of the execution of this Agreed Entry. Such training shall cover each element of the Process Safety Management program, including process safety information, process hazard analysis, standard operating procedures, employee training and evaluation, contractor safety and prequalification, pre-start-up safety review, mechanical integrity, hot work policies and permits, management of change, incident investigation criteria and documentation, emergency planning and response, compliance audits, and record retention. Upon completion of this training, Respondent shall provide documentation of the training to Complainant. Respondent intends to conduct similar training for employees who are responsible for

maintaining the Process Safety Management program at other Tyson facilities nation-wide.

5. Respondent agrees to develop and implement a revised Odor Log to document all reported ammonia releases and whether such releases were investigated pursuant to 29 CFR 1910.119(m). The revised Odor Log shall be implemented at the Logansport facility within 60 days of the execution of this Agreed Entry and shall be substantially similar in form to the document attached hereto as Exhibit B. Respondent intends to use the revised Odor Log at other facilities nation-wide.

6. Submission of the documentation required pursuant to Paragraph 4 of this Agreed Entry, and development of the revised Odor Log pursuant to Paragraph 5 of this Agreed Entry shall suffice as documentation that the conditions alleged in Safety Order No. 1, Item Nos. 1, 3, 4, and 5 have been abated.

7. Respondent agrees to consent to one monitoring inspection, without requiring a warrant, by Complainant at Respondent's Logansport facility within twelve (12) months following the execution of this Agreed Entry, to be limited to determining whether Respondent has initiated incident investigations within the time frame required under 29 CFR 1910.119(m)(2) and has maintained its incident investigation reports for a period of five years as required by 29 CFR 1910.119(m)(7).

8. Complainant amends the total penalty for all violations and all subparts thereunder for Safety Order No. 1 from Thirty Thousand Dollars (\$30,000.00) to Ten Thousand Dollars (\$10,000.00).

9. The AGREED total penalty subject to this Agreed Entry is Ten Thousand Dollars (\$10,000.00).

10. It is understood and agreed by the Respondent and Complainant that this Agreed

Entry and attachments will constitute a final, enforceable IOSHA Safety Order(s) and penalties for the purposes of the IOSHA Act.

11. Respondent hereby withdraws its petition for review previously filed in this matter.

12. Payment of the Agreed Ten Thousand Dollars (\$10,000.00) constitutes full and final settlement and release of all pending fines and penalties in this matter.

PART IV.

1. Nothing contained in this agreement shall be construed to affect the Commissioner's interpretation of the Indiana Occupational Safety and Health Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

2. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

3. Except for these proceedings, and matters arising out of these proceedings and any other subsequent IOSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by the Respondent shall be deemed an admission. The agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

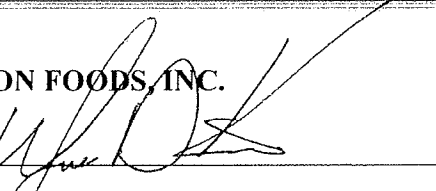
4. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

AGREED this 22 day of July, 2011.

TYSON FOODS, INC.

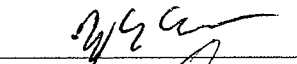
By:

Title:

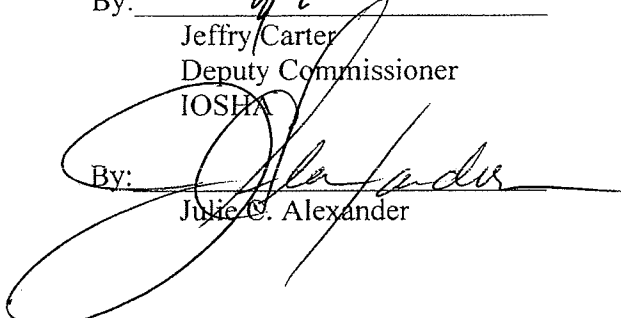

Complex Manager

COMMISSIONER OF LABOR

By:


Jeffrey Carter
Deputy Commissioner
IOSHA

By:


Julie C. Alexander

Indiana Department of Labor

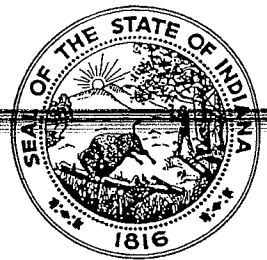
Indiana Occupational Safety and Health Administration

402 West Washington Street

Room W195

Indianapolis, IN 46204-2751

Phone: 317/232-1979 Fax: 317/233-8509



certified mail # 70031010 00035731 3310 11-4-10 jto

Safety Order and Notification of Penalty

To:

Tyson Foods, Inc.,
and its successors
2125 South CR 125 South
Logansport, IN 46947

Inspection Number: 314256173

Inspection Date(s): 04/30/2010 - 10/12/2010

Issuance Date: 11/04/2010

Inspection Site:

2125 South CR 125 South
Logansport, IN 46947

The violation(s) described in this Safety Order 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.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days

on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

~~(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.~~

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

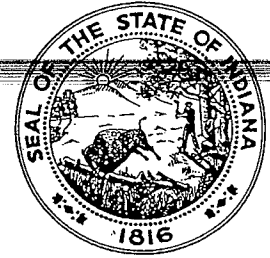
Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

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 Indiana Department of Labor/IOSHA at the address shown above.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any ~~abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to~~ the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 11/04/2010. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____.

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

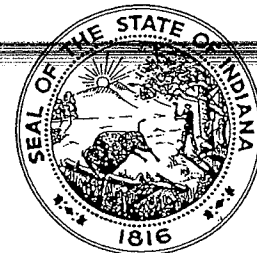
Indiana Department of Labor

Inspection Number: 314256173

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010

Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.

Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

Safety Order Item 1 Type of Violation: **Serious**

29 CFR 1910.119(m)(1): The employer did not investigate each incident which resulted in, or could reasonably have resulted in, a catastrophic release of a highly hazardous chemical in the workplace:

Facility - Tyson Foods, Inc. did not investigate each incident resulting in, or which could have reasonably resulted in a release of ammonia from the refrigeration process including, but not limited to:

- a. July 20, 2005 , a release of 74 pounds of ammonia
- b. September 10, 2005 , a release of 3 pounds of ammonia
- c. September 12, 2005 , a release of 8 pounds of ammonia
- d. June 22, 2006, a release of greater than 100 pounds of ammonia
- e. August 13, 2006, a release of 9 pounds of ammonia
- f. August 23, 2007, a release of 22 pounds of ammonia
- g. October 29, 2007 . a release of 504 pounds of ammonia
- h. December 4, 2007, a release of 730 pounds of ammonia
- i. March 10, 2008, a release of ammonia measured at 35 parts per million
- j. March 27, 2008, a release of ammonia measured at 49 parts per million
- k. April 9, 2008, a release of ammonia measured at 39 parts per million
- l. April 13, 2008, a release of ammonia measured at 100 parts per million
- m. April 18, 2008, a release of ammonia measured at greater than 100 parts per million
- n. April 28, 2008, a release of 3,929 pounds of ammonia
- o. May 7, 2008, a release of ammonia measured at 65 parts per million
- p. July 21, 2008, a release of ammonia measured at 30 parts per million
- q. November, 2008, a release of ammonia measured at 35 parts per million
- r. June 28, 2009, a release of 34.7 pounds of ammonia
- s. March 5, 2010 a fire at the Kill Floor could have resulted in an ammonia release
- s. March 6, 2010, a release of ammonia measured at 100 parts per million
- t. March 15, 2010, a release of ammonia measured at 30 parts per million

Date By Which Violation Must be Abated:

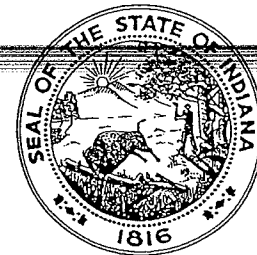
12/02/2010

Proposed Penalty:

\$5,000.00

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010
Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.
Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

Safety Order 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.119(m)(2): The investigation of an accident which resulted in, or could reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace, was not initiated promptly or within 48 hours following the incident:

Facility - Tyson Foods, Inc. did not initiate promptly or within 48 hours following the incident each incident resulting in, or which could have reasonably resulted in a release of ammonia from the refrigeration process including, but not limited to:

Catastrophic

A. Incident reports without a date the team initiated the incident investigation such a 144 pound ammonia release on December 13, 2006 which had no date when the team initiated the incident investigation.

B. Incident reports where the date the investigation was initiated was more than 48 hours after the release such as a release on July 1, 2008 that was not initiated until July 8, 2008.

C. Incidents where no investigation was initiated within 48 hours such as, but not limited to:

1. a release of 74 pounds of ammonia on July 20, 2005 with no investigation
2. a release of 3 pounds of ammonia on September 10, 2005 with no investigation
3. a release of 9 pounds of ammonia on August 13, 2006 with no investigation
4. a release of 504 pounds of ammonia on October 29, 2007 with no investigation
5. a release of 730 pounds of ammonia on December 4, 2007 with no investigation
6. a release of ammonia measured at greater than 100 parts per million on April 18, 2008 with no investigation
7. a release of 3,929 pounds of ammonia on April 28, 2008 with no investigation
8. a release of ammonia measured at 65 parts per million May 7, 2008 with no investigation
9. a release of 34.7 pounds of ammonia on June 28, 2009 with no investigation
10. a release of ammonia measured at 100 parts per million on March 6, 2010 with no investigation

Date By Which Violation Must be Abated:

12/02/2010

Proposed Penalty:

\$5,000.00

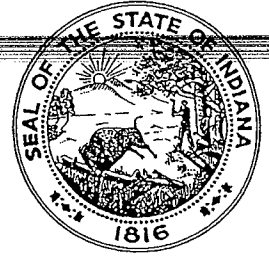
Indiana Department of Labor

Inspection Number: 314256173

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010

Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.

Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

Safety Order 1 Item 3 Type of Violation: **Serious**

29 CFR 1910.119(m)(3): The employer did not establish an incident investigation team to investigate an incident which resulted in, or could reasonably have resulted, in a catastrophic release highly hazardous chemical in the workplace:

Facility - Tyson Foods, Inc. did not establish an incident investigation team to investigate each incident resulting in, or which could have reasonably resulted in a release of ammonia from the refrigeration process including, but not limited to:

- a. July 20, 2005 , a release of 74 pounds of ammonia
- b. September 10, 2005 , a release of 3 pounds of ammonia
- c. September 12, 2005 , a release of 8 pounds of ammonia
- d. June 22, 2006, a release of greater than 100 pounds of ammonia
- e. August 13, 2006, a release of 9 pounds of ammonia
- f. August 23, 2007, a release of 22 pounds of ammonia
- g. October 29, 2007 , a release of 504 pounds of ammonia
- h. December 4, 2007, a release of 730 pounds of ammonia
- i. March 10, 2008, a release of ammonia measured at 35 parts per million
- j. March 27, 2008, a release of ammonia measured at 49 parts per million
- k. April 9, 2008, a release of ammonia measured at 39 parts per million
- l. April 13, 2008, a release of ammonia measured at 100 parts per million
- m. April 18, 2008, a release of ammonia measured at greater than 100 parts per million
- n. April 28, 2008, a release of 3.929 pounds of ammonia
- o. May 7, 2008, a release of ammonia measured at 65 parts per million
- p. July 21, 2008, a release of ammonia measured at 30 parts per million
- q. November, 2008, a release of ammonia measured at 35 parts per million
- r. June 28, 2009, a release of 34.7 pounds of ammonia
- s. March 5, 2010 a fire at the Kill Floor could have resulted in an ammonia release
- s. March 6, 2010, a release of ammonia measured at 100 parts per million
- t. March 15, 2010, a release of ammonia measured at 30 parts per million

Date By Which Violation Must be Abated:

12/02/2010

Proposed Penalty:

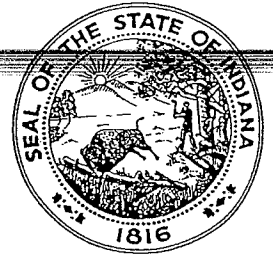
\$5,000.00

Indiana Department of Labor

Inspection Number: 314256173

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010
Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.
Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

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

Safety Order 1 Item 4a Type of Violation: **Serious**

29 CFR 1910.119(m)(4)(ii): The report prepared at the conclusion of the investigation of an incident which resulted in, or could reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace, did not include the date the investigation began:

Facility - Tyson Foods, Inc. did not include the date the incident investigation began in reports where there were releases of ammonia from the refrigeration process including, but not limited to:

- a. June 22, 2006, a release of greater than 100 pounds of ammonia
- b. December 28, 2006, a release of 144 pounds of ammonia
- c. October 29, 2007, a release of 540 pounds of ammonia
- d. March 6, 2010, a release of ammonia measured at 100 parts per million

Date By Which Violation Must be Abated: 12/02/2010
Proposed Penalty: \$5,000.00

Safety Order 1 Item 4b Type of Violation: **Serious**

29 CFR 1910.119(m)(4)(iv): The report prepared at the conclusion of the investigation of an incident which resulted in, or could have reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace, did not include the factors that contributed to the incident:

Facility - Tyson Foods, Inc. did not include the factors contributing to the incident in reports where there were releases of ammonia from the refrigeration process including, but not limited to:

- a. December 28, 2006, a release of 144 pounds of ammonia
- b. October 29, 2007, a release of 540 pounds of ammonia
- c. March 6, 2010, a release of ammonia measured at 100 parts per million

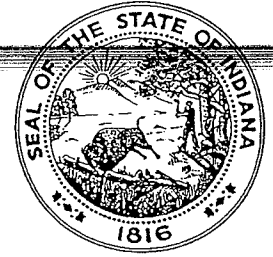
Date By Which Violation Must be Abated: 12/02/2010

*Add
Penalty*

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010

Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.

Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

Safety Order 1 Item 4c Type of Violation: **Serious**

29 CFR 1910.119(m)(4)(v): The report prepared at the conclusion of the investigation of an incident which resulted in, or could have reasonably resulted in a catastrophic release of highly hazardous chemical in the workplace, did not include any recommendations resulting from the investigation team:

Facility - Tyson Foods, Inc. did not include recommendations resulting from the investigation team in reports where there were releases of ammonia from the refrigeration process including but not limited to:

- a. June 22, 2006, a release of greater than 100 pounds of ammonia
- b. December 28, 2006, a release of 144 pounds of ammonia
- c. October 29, 2007, a release of 540 pounds of ammonia
- d. December 4, 2007, a release of 703 pounds of ammonia
- e. March 6, 2010, a release of ammonia measured at 100 parts per million

Date By Which Violation Must be Abated:

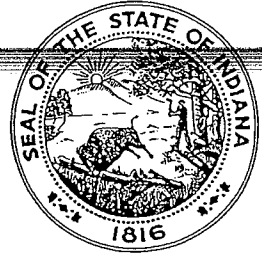
12/02/2010

Indiana Department of Labor

Inspection Number: 314256173

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010
Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.
Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

Safety Order 1 Item 5 Type of Violation: **Serious**

29 CFR 1910.119(m)(6): The incident investigation report was not reviewed with all affected personnel, including contract employees whose job tasks are relevant to the incident findings:

Facility - Tyson Foods, Inc. did not include review findings with affected personnel resulting where there were releases of ammonia from the refrigeration process including, but not limited to:

- a. July 20, 2005 , a release of 74 pounds of ammonia
- b. September 10, 2005 , a release of 3 pounds of ammonia
- c. September 12, 2005 , a release of 8 pounds of ammonia
- d. June 22, 2006, a release of greater than 100 pounds of ammonia
- e. August 13, 2006, a release of 9 pounds of ammonia
- f. December 28, 2006, a release of 144 pounds of ammonia
- g. August 23, 2007, a release of 22 pounds of ammonia
- h. October 29, 2007 , a release of 504 pounds of ammonia
- i. December 4, 2007, a release of 730 pounds of ammonia
- j. March 10, 2008, a release of ammonia measured at 35 parts per million
- k. March 27, 2008, a release of ammonia measured at 49 parts per million
- l. April 9, 2008, a release of ammonia measured at 39 parts per million
- m. April 13, 2008, a release of ammonia measured at 100 parts per million
- n. April 18, 2008, a release of ammonia measured at greater than 100 parts per million
- o. April 28, 2008, a release of 3,929 pounds of ammonia
- p. May 7, 2008, a release of ammonia measured at 65 parts per million
- q. July 21, 2008, a release of ammonia measured at 30 parts per million
- r. November, 2008, a release of ammonia measured at 35 parts per million
- s. June 28, 2009, a release of 34.7 pounds of ammonia
- t. March 5, 2010 a fire at the Kill Floor could have resulted in an ammonia release
- u. March 6, 2010, a release of ammonia measured at 100 parts per million
- v. March 15, 2010, a release of ammonia measured at 30 parts per million

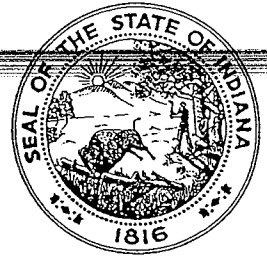
Date By Which Violation Must be Abated: 12/02/2010
Proposed Penalty: \$5,000.00

Indiana Department of Labor

Inspection Number: 314256173

Occupational Safety and Health Administration

Inspection Dates: 04/30/2010 - 10/12/2010
Issuance Date: 11/04/2010



Safety Order and Notification of Penalty

Company Name: Tyson Foods, Inc.
Inspection Site: 2125 South CR 125 South, Logansport, IN 46947

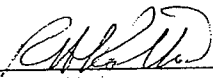
Safety Order 1 Item 6 Type of Violation: **Serious**

29 CFR 1910.119(m)(7): Incident investigation reports were not retained for at least five years:

Facility - Tyson Foods, Inc. did not retain incident investigation reports of releases of ammonia from the refrigeration process including, but not limited to:

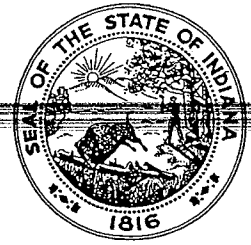
- a. Incident report for a release of greater than 100 parts per million of ammonia on June 22, 2006
- b. Incident report for a release of 540 pounds of ammonia on October 29, 2007
- c. Incident report for a release of 730 pounds of ammonia on December 4, 2007
- d. Incident report for a release of 3,923 pounds of ammonia on April 28, 2008
- e. Incident report for a release of ammonia on July 1, 2008.

Date By Which Violation Must be Abated: 12/02/2010
Proposed Penalty: \$5,000.00



Robert A. Kattau
Director, Industrial Compliance

Indiana Department of Labor
Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2751
Phone: 317/232-1979 Fax: 317/233-8509



INVOICE/DEBT COLLECTION NOTICE

Company Name: Tyson Foods, Inc.
Inspection Site: 2125 South CR 125 South, Logansport, IN 46947
Issuance Date: 11/04/2010


Summary of Penalties for Inspection Number	314256173
Safety Order 01, Serious	= \$30,000.00
Total Proposed Penalties	\$30,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

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

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).



Robert A. Kattau
Director, Industrial Compliance

11-4-10

Date