

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA OFFICE OF  
ADMINISTRATIVE LAW PROCEEDINGS,  
SUBJECT TO THE ULTIMATE  
AUTHORITY OF THE IOSHA BOARD OF  
SAFETY REVIEW

IN THE MATTER OF: )  
 )  
COMMISSIONER OF LABOR, )  
 )  
Complainant, )  
 )  
v. )  
 )  
FARBEST FOODS INC. )  
AND ITS SUCCESSORS, )  
 )  
Respondent. )

OALP CASE NO. DOL-1120-001355  
BSR DOCKET NO. 20-029

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter "Complainant") and Farbest Foods Inc. (hereinafter "Respondent"), through their duly authorized representatives, desiring to enter into this Agreed Entry as final settlement of this matter, do hereby stipulate and agree as follows:

PART I.

1. From July 22, 2020, through August 28, 2020, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent's worksite located at 4689 S. 400 W., Huntingburg, Indiana 47542.
2. On October 30, 2020, Complainant issued a Safety Order and Notification of Penalty (hereinafter "Safety Order") resulting from Indiana Department of Labor Inspection No. 318123833 and alleging that Respondent had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*) or the standards or rules thereunder. The Safety Order is attached hereto as Exhibit A and is incorporated herein.

3. On or about November 24, 2020, Respondent duly and timely petitioned for review of the Safety Order.

PART II.

4. The Safety Order consists of Safety Order 1, Item Nos. 1, 2a, 2b, 2c, 2d, 3, and 4.

5. Safety Order 1, Item 1 alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(i) and assesses a penalty of Five Thousand Dollars (\$5,000).

6. Safety Order 1, Item 2a alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(ii) and assesses a shared penalty, grouped with Items 2b-d, of Five Thousand Dollars (\$5,000).

7. Safety Order 1, Item 2b alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(ii)(B) and assesses no additional penalty to what is assessed in Item 2a.

8. Safety Order 1, Item 2c alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(ii)(C) and assesses no additional penalty to what is assessed in Item 2a.

9. Safety Order 1, Item 2d alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(ii)(D) and assesses no additional penalty to what is assessed in Item 2a.

10. Safety Order 1, Item 3 alleges a "Serious" violation of 29 CFR 1910.147(c)(7)(i) and assesses a penalty of Five Thousand Dollars (\$5,000).

11. Safety Order 1, Item 4 alleges a "Serious" violation of 29 CFR 1910.147(d) and assesses a penalty of Five Thousand Dollars (\$5,000).

12. The total assessed penalty for Safety Order 1 is Twenty Thousand Dollars (\$20,000).

PART III.

13. The Safety Order is hereby amended as follows.

14. Safety Order 1, Item 1 is deleted in its entirety.

15. Safety Order 1, Items 2a-d are deleted in their entirety.

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16. Safety Order 1, Item 3 is upheld, but the AVD is modified as follows: "ACM Line # 1, JLR Machine – On or about 7/9/20 and at times prior, the lockout/tagout procedure was not fully understood by an authorized employee due to a language barrier which created the possibility of caught-in hazards during equipment sanitation duties." The penalty is also reduced to Three Thousand Five Hundred Dollars (\$3,500).

17. Safety Order 1, Item 4 is upheld, but the SAVE is modified as follows: "29 CFR 1910.147(d): The established procedures for the application of energy control (the lockout or tagout procedures) were not done in sequence as required by 29 CFR 1910.147(d)(1)-(6)." The penalty is also reduced to Three Thousand Five Hundred Dollars (\$3,500).

18. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Seven Thousand Dollars (\$7,000).

19. Respondent further agrees as follows:

- a. The Respondent's Lockout/Tagout (LOTO) Committee will conduct random documentation audits for review during LOTO committee meetings. This process will be implemented immediately, but will be utilized at the first LOTO Committee meeting when such meeting occurs.
- b. The Respondent will establish an audit procedure that requires a manager or designee to physically observe sanitation employees lockout the machine before any LOTO work can start. This physical observation will then be recorded on a daily audit sheet. This procedure was implemented on March 1, 2021.

20. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties

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for the purposes of the Indiana Occupational Safety and Health Act ("Act").

21. Respondent confirms Complainant's right to re-inspect its workplaces, in accordance with the Act, and to verify abatement of the alleged violations.

22. If not already identified in the Safety Order and Notification of Penalty as completed during the inspection, all abatement, including any enhanced abatement identified and agreed upon herein, must still be completed in a timely manner and certified to IOSHA by completing a Letter of Abatement, State Form 44425, and sending the form, along with any supporting documentation and photographs, to IOSHA by any of the means listed in the box in the upper right portion of the form.

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

PART IV.

24. Nothing contained in this Agreed Entry shall be construed to affect Complainant's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

25. Except for this agreement, and matters arising out of this agreement 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 by Respondent of the allegations contained within the Safety Order(s) and Notification(s) of Penalty. 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.

26. 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.

27. 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)(C).

AGREED this 24<sup>th</sup> day of March, 2021.

FARBEST FOODS INC.

By: 

Printed: Kyle Price

Title: Director of OHS

COMMISSIONER OF LABOR

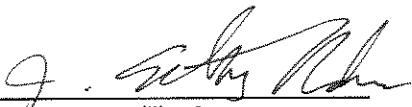
By: 

Michelle L. Ellison,  
Deputy Commissioner of IOSHA

Approved as to Form:

By: 

Ryan McCabe Poor  
Counsel for Respondent

By: 

J. Anthony Hardman,  
Counsel for Complainant

STATE OF INDIANA )  
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COUNTY OF MARION )

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ADMINISTRATIVE LAW PROCEEDINGS,  
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17. Safety Order 1, Item 4 is upheld, but the SAVE is modified as follows: "29 CFR 1910.147(d): The established procedures for the application of energy control (the lockout or tagout procedures) were not done in sequence as required by 29 CFR 1910.147(d)(1)-(6)." The penalty is also reduced to Three Thousand Five Hundred Dollars (\$3,500).

18. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Seven Thousand Dollars (\$7,000).

19. Respondent further agrees as follows:

- a. The Respondent's Lockout/Tagout (LOTO) Committee will conduct random documentation audits for review during LOTO committee meetings. This process will be implemented immediately, but will be utilized at the first LOTO Committee meeting when such meeting occurs.
- b. The Respondent will establish an audit procedure that requires a manager or designee to physically observe sanitation employees lockout the machine before any LOTO work can start. This physical observation will then be recorded on a daily audit sheet. This procedure was implemented on March 1, 2021.

20. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties



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for the purposes of the Indiana Occupational Safety and Health Act ("Act").

21. Respondent confirms Complainant's right to re-inspect its workplaces, in accordance with the Act, and to verify abatement of the alleged violations.

22. If not already identified in the Safety Order and Notification of Penalty as completed during the inspection, all abatement, including any enhanced abatement identified and agreed upon herein, must still be completed in a timely manner and certified to IOSHA by completing a Letter of Abatement, State Form 44425, and sending the form, along with any supporting documentation and photographs, to IOSHA by any of the means listed in the box in the upper right portion of the form.

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

PART IV.

24. Nothing contained in this Agreed Entry shall be construed to affect Complainant's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

25. Except for this agreement, and matters arising out of this agreement 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 by Respondent of the allegations contained within the Safety Order(s) and Notification(s) of Penalty. 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.

26. 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.

27. 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)(C).

AGREED this 24<sup>th</sup> day of March, 2021.

FARBEST FOODS INC.

By: 

Printed: Kyle Price

Title: Director of OHS

COMMISSIONER OF LABOR

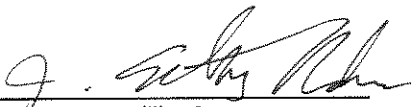
By: 

Michelle L. Ellison,  
Deputy Commissioner of IOSHA

Approved as to Form:

By: 

Ryan McCabe Poor  
Counsel for Respondent

By: 

J. Anthony Hardman,  
Counsel for Complainant

# Indiana Department of Labor

Indiana Occupational Safety and Health Administration  
402 West Washington St - Room W195  
Indianapolis, IN 46204  
Phone: (317)232-2691 FAX: (317)233-3790



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## Safety Order and Notification of Penalty

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**To:**

Farbest Foods Incorporated  
and its successors  
4689 South 400 West  
Huntingburg, IN 47542

**Inspection Number:** 318123833**CSHO ID:** W7079**Optional Report No.:** 2034-21**Inspection Date(s):** 7/22/2020 - 8/28/2020**Issuance Date:** 10/30/2020**Inspection Site:**

4689 South 400 West  
Huntingburg, IN 47542

*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.*

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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 board appointed by the governor with authority to conduct legal proceedings leading up to and including administrative hearings, or assign an Administrative Law Judge (ALJ) to conduct the same, and to issue decisions concerning disputed safety orders and notifications of penalties. 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 and proof of abatement must be sent to the email address: [AbatementGI@dol.in.gov](mailto:AbatementGI@dol.in.gov) 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 be sent to the email address: [AbatementGI@dol.in.gov](mailto:AbatementGI@dol.in.gov) 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 sending the Petition to [AbatementGI@dol.in.gov](mailto:AbatementGI@dol.in.gov). 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 and sent to the email address [AbatementGI@dol.in.gov](mailto:AbatementGI@dol.in.gov). 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 via email at [AbatementGI@dol.in.gov](mailto:AbatementGI@dol.in.gov), 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 10/30/2020. 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**  
Occupational Safety and Health Administration

**Inspection Number:** 318123833  
**Inspection Date(s):** 7/22/2020 - 8/28/2020  
**Issuance Date:** 10/30/2020  
**CSHO ID:** W7079  
**Optional Report No.:** 2034-21

**Safety Order and Notification of Penalty**

**Company Name:** Farbest Foods Incorporated  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542

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**Safety Order 01 Item 001**                      Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section:

ACM Line # 1, JLR Machine - On or about 7/9/20 and at time prior to, the lockout/tagout procedure was not adequately developed nor utilized in that it did not identify nor include all energy sources such as, but not limited to; pneumatic, which exposed an employee to a caught-in hazard while performing equipment sanitation duties.

**Date By Which Violation Must Be Abated:**                      **12/8/2020**  
**Proposed Penalty:**    **\$5,000.00**



**Indiana Department of Labor**  
Occupational Safety and Health Administration

**CSHO ID:**

**Inspection Number:** 318123833  
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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.

**Safety Order 01 Item 002a**                      Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(ii): Procedures did not clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance including, but not limited to, 29 CFR 1910.147(c)(4)(ii)(A), (c)(4)(ii)(B), (c)(4)(ii)(C) and (c)(4)(ii)(D):

ACM Line # 1, JLR Machine – The lockout/tagout procedure did not identify the necessary steps/protocols to isolate all of the energy sources such as, but not limited to; pneumatic, which created the potential for caught-in hazards during machine sanitation duties.

**Date By Which Violation Must Be Abated:**                      **12/8/2020**  
**Proposed Penalty:**    **\$5,000.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

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**Safety Order 01 Item 002b**                      Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(ii)(B): The energy control procedure did not clearly and specifically outline the steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy.

ACM Line # 1, JLR Machine – The lockout/tagout procedure did not identify nor include the specific protocol that must be followed to isolate the pneumatic energy source, which created the potential for caught-in hazards during equipment sanitation duties.

**Date By Which Violation Must Be Abated:**                      **12/8/2020**  
**Proposed Penalty:**    **\$0.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318123833  
**Inspection Date(s):** 7/22/2020 - 8/28/2020  
**Issuance Date:** 10/30/2020  
**CSHO ID:** W7079  
**Optional Report No.:** 2034-21

**Safety Order and Notification of Penalty**

**Company Name:** Farbest Foods Incorporated  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542

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**Safety Order 01 Item 002c**                      Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(ii)(C): The energy control procedure did not clearly and specifically outline the steps for placement, removal and transfer of lockout devices or tagout devices and the responsibility for them:

ACM, JLR Machine – The lockout/tagout procedure did not identify the steps to be followed for the proper placement and removal of lockout devices for the pneumatic energy, which exposed an employee to the possibility of caught-in hazards during sanitation equipment service.

**Date By Which Violation Must Be Abated:**                      **12/8/2020**  
**Proposed Penalty:**    **\$0.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**CSHO ID:**

**Inspection Number:** 318123833  
**Inspection Date(s):** 7/22/2020 - 8/28/2020  
**Issuance Date:** 10/30/2020  
W7079  
**Optional Report No.:** 2034-21

**Safety Order and Notification of Penalty**

**Company Name:** Farbest Foods Incorporated  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542

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**Safety Order 01 Item 002d**                      Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(ii)(D): The energy control procedures did not clearly and specifically outline the requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures:

ACM Line # 1, JLR Machine – The lockout/tagout procedure did not address the specific steps to be followed to ensure that a zero energy state had been accomplished for energy sources such as, but not limited to; pneumatic, which exposed an employee to the possibility of caught-in hazards during sanitation equipment service.

**Date By Which Violation Must Be Abated:**                      **12/8/2020**  
**Proposed Penalty:**    **\$0.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318123833  
**Inspection Date(s):** 7/22/2020 - 8/28/2020  
**Issuance Date:** 10/30/2020  
**CSHO ID:** W7079  
**Optional Report No.:** 2034-21

**Safety Order and Notification of Penalty**

**Company Name:** Farbest Foods Incorporated  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542

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**Safety Order 01 Item 003**

Type of Violation: **Serious**

29 CFR 1910.147(c)(7)(i): The employer did not provide training to ensure that the purpose and function of the energy control program are understood by employees and that the knowledge and skills required for the safe application, usage, and removal of the energy controls are acquired by employees:

ACM Line # 1, JLR Machine - On or about 7/9/20 and at time prior to, the lockout/tagout procedure was not developed for nor understood by and authorized employee due to a language barrier which created the possibility of caught-in hazards during equipment sanitation duties.

**Date By Which Violation Must Be Abated:** 12/8/2020  
**Proposed Penalty:** \$5,000.00

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**CSHO ID:**

**Inspection Number:** 318123833  
**Inspection Date(s):** 7/22/2020 - 8/28/2020  
**Issuance Date:** 10/30/2020  
W7079  
**Optional Report No.:** 2034-21

## **Safety Order and Notification of Penalty**

**Company Name:** Farbest Foods Incorporated  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542

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### **Safety Order 01 Item 004**

Type of Violation: **Serious**

29 CFR 1910.147(d): The established procedure for the application of energy control (the lockout or tagout procedures) did not cover the actions listed in and was not done in sequence as required by 29 CFR 1910.147(d)(1)-(6):

ACM Line # 1, JLR Machine – On or about 7/9/20, and at time prior to, an employee was exposed to a caught in hazard from the energized chain and sprocket while performing equipment sanitation duties. The energy control application steps to perform the sanitation work were not implemented per 1910.147(d) requirements. As a result, the following applicable energy control elements were not followed to include:

Prepare for shutdown [(d)(1)] - ensure authorized employee has knowledge of the type and magnitude of the energy, the hazards of the energy to be controlled, and the method or means to control the energy;

Shutdown the machine or equipment [(d)(2)] - the machine or equipment shall be turned off or shut down using the procedures established for the machine or equipment;

Machine isolation [(d)(3)] - physically locate and operate all energy isolating devices that are needed to control the energy to the machine or equipment in such a manner as to isolate the machine or equipment from the energy source(s);

LOTO device application [(d)(4)(i)] - affix a lockout or tagout device to each energy isolating device;

Stored energy [(d)(5)(i)] - all potentially hazardous or stored residual energy shall be relieved, disconnected, restrained, or otherwise rendered safe;

Verification of isolation [(d)(6)] - verify that isolation and deenergization of the machine or equipment has been accomplished.

**Date By Which Violation Must Be Abated:** 12/8/2020  
**Proposed Penalty:** \$5,000.00



Julie C. Alexander, JD  
Director of General Industry

# Indiana Department of Labor

Indiana Occupational Safety and Health Administration  
402 West Washington St - Room W195  
Indianapolis, IN 46204  
Phone: (317)232-2691 FAX: (317)233-3790



## INVOICE/DEBT COLLECTION NOTICE

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**Company Name:** Farbest Foods Incorporated  
and its successors  
**Inspection Site:** 4689 South 400 West, Huntingburg, IN 47542  
**Issuance Date:** 10/30/2020

### Summary of Penalties for Inspection Number: 318123833

**Safety Order 1, Serious** = \$20,000.00  
**TOTAL PENALTIES** = \$20,000.00

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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. You may also make a payment online at <https://payingov.com/dol/>. Your account number is your inspection number.

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).

10/30/2020

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Julie C. Alexander, J.D.  
Director of General Industry

Date





# INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR  
*Joe B. Hoage, Commissioner*  
402 West Washington Street, Room W195  
Indianapolis, Indiana 46204-2751  
Phone: (317) 232-2655  
Fax: (317) 233-3790

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To: Employer Representatives

Re: Attached Safety Order(s) and Notification(s) of Penalty(ies)

An inspection of your employer's work site (see address on the attached Safety Order[s]) has revealed conditions which we believe do not comply with the provisions of The Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1), or the standards or rules adopted thereunder. Accordingly, enclosed please find copies of the Safety Order(s) and Notification(s) of Penalty(ies) issued to your employer, describing such violation(s) with reference to the applicable standards, rules or provisions of the statute and stating the amount of any penalties.

Your employer may request an informal conference to review the results of the inspection (Safety Orders, penalties, abatement dates, etc.). You will be invited to attend this conference if one is requested. You may also request an informal review of the inspection.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of abatement times only. Such a petition must be filed before the Safety Order(s) becomes a final order (15 working days after receipt or within ten (10) working days after notification of employer petition to modify abatement date[s]).

Please direct any questions you may have to me at the address above or telephone number below.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie C. Alexander".

Julie C. Alexander, J.D.  
Director, Industrial Compliance  
317-232-1987

Enclosure