



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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 was free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were exposed to slip, trip and fall hazards inside a tunnel freezer with temperature extremes.

On or about May 27, 2014, employees were exposed to slip, trip, fall hazards and temperature extreme hazards as they were required to work alone inside a tunnel freezer at temperatures below -40 degrees F, with an additional wind chill created by compressor fans, on slippery snow and ice covered surfaces, with no method of communication or rescue in the event of a fall and/or emergency.

Among other methods, feasible and acceptable methods to correct this hazard include, but are not limited to: the establishment of a buddy system, in which it is a requirement for two employees to work together whenever entering the tunnel freezers; ensuring that all employees entering the tunnel freezer don freezer gear covering all extremities, taking special care to protect hand and face; have a set time limit allowed to work inside tunnel freezers; install an interlock switch so that the compressor fans shut off while an employee is inside the freezer, reducing the wind chill; allow time for the floor to dry after Sanitation so the remaining water does not freeze on the floor, creating an ice-covered surface or install a grated walkway so that water from Sanitation can drain away.

In the alternative:

29 CFR 1910.146(c)(4): When the employer decided that its employees would enter permit spaces, the employer did not develop and implement a written permit space entry program that complied with 29 CFR 1910.146:

On or about May 27, 2014, the employer did not implement a written confined space entry program for employees entering confined spaces, such as, but not limited to, Tunnel Freezer #2.

ABATEMENT DOCUMENTATION REQUIRED PER 29 CFR 1903.19(d)

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$7000.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.22(a)(1): All places of employment, passageways, storerooms or service rooms were not kept clean and orderly or in a sanitary condition.

On or about May 27, 2014, the employer did not ensure that the walkway inside Tunnel Freezer #2 was kept in a clean condition in that ice, snow and frozen product was allowed to build up on the walkway and create slippery walking and working surfaces.

ABATEMENT DOCUMENTATION REQUIRED PER 29 CFR 1903.19(d)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$7000.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.23(a)(2): Ladderway floor opening(s) or platform(s) were not guarded by a standard railing with standard toeboard(s) on all exposed sides (except at the entrance to opening) with passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening:

On or about May 27, 2014, the platform on the scale deck for the Poly 3 line did not have a swinging gate or so offset that a person cannot walk directly into the opening when employees were working on the platform.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$5500.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.106(d)(7)(iii): Open flames and smoking." Open flames and smoking were permitted in flammable liquid storage areas. ~~W~~On or about May 27, 2014, welding was performed in the Packaging Mechanic Shop which had flammable and combustible chemicals stored next to the welding station.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$4400.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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 5 a Type of Violation: **Serious**

29 CFR 1910.132(a): Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers was not provided, used, and/or maintained.

On or about May 27, 2014, protective clothing, including but not limited to, insulated head protection and insulated hand protection, was not used when employees were working inside the Tunnel Freezer #2.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$6600.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.132(d)(1)(ii): The employer did not communicate personal protection equipment selection decision(s) to each affected employee:

On or about May 27, 2014, the employer did not communicate provided protective clothing selection to each affected employee, including but not limited to, the following:

- a) Communicated the availability of insulated personal protective equipment, at no cost to employees, for Processing forklift drivers working in the storage freezers.
- b) Communicated the availability of insulated personal protective equipment, at no cost to employees, for Packaging forklift drivers working in the storage freezers.
- c) Communicated the availability of insulated head wear and insulated hand protection, at no cost to employees, for Tunnel Attendants.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:

12/18/2014

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.215(b)(9): The distance between the abrasive wheel periphery(s) and the adjustable tongue or the end of the safety guard peripheral member at the top exceeded one fourth inch:

On or about May 27, 2014, the employer did not ensure that the distance between the abrasive wheel and the adjustable tongue guard did not exceed one fourth inch on the following grinders:

- a) Dayton pedestal grinder located in the Packaging Mechanic Shop.
- b) Baldor pedestal grinder located in the Plant Mechanic Shop.
- c) Milwaukee pedestal grinder located in the Plant Mechanic Shop.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$4400.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.252(c)(2)(ii): Mechanical ventilation provided did not meet the minimum rate of 2,000 cubic feet (57 m3) per minute per welder:

On or about May 27, 2014, the employer did not provide mechanical ventilation that met the minimum rate of 2,000 cubic feet per minute per welder.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$5500.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.303(e)(1)(ii): Other markings giving voltage, current, wattage, or other ratings as necessary had not been placed on equipment being used.

On or about May 27, 2014, the electrical cabinet in Poly 3 catwalk was not marked with voltage, current, wattage or other ratings.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$5500.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.333(a)(1): Live parts to which an employee was exposed were not deenergized before the employee worked on or near them:

On or about May 27, 2014, employees were exposed to live parts when working inside cabinets that were not deenergized.

ABATEMENT DOCUMENTATION REQUIRED PER 29 CFR 1903.19(d)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$7000.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.335(a)(1)(i): Employees working in areas where there were potential electrical hazards were not using electrical protective equipment that was appropriate for the specific parts of the body to be protected and for the work to be performed:

On or about May 27, 2014, Maintenance Mechanics working in production area that were exposed to electrical hazards were not using electrical protective equipment that was appropriate for the specific parts of the body to be protected and for the work to be performed.

ABATEMENT DOCUMENTATION REQUIRED PER 29 CFR 1903.19(d)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$7000.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.1026(d)(2)(i): The employer did representative sampling instead of sampling all employees; however, the employer did not sample the employee(s) expected to have the highest chromium (VI) exposures:

On or about May 27, 2014, the employer did not conduct a reasonable estimation of welders exposure to hexavalent chromium while welding on stainless steel, in that the representative sampling did not include the employee's expected to have the highest hexavalent chromium exposures:

- a) Full shift evaluations of TIG welding operations on stainless steel.
- b) Full shift evaluations of MIG welding operations on stainless steel.
- c) Full shift evaluation of stick welding operations on stainless steel.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$5500.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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 1910.1026(1)(2): 29CFR 1910.1026(1)(2): The employer did not ensure that employees could demonstrate knowledge of the contents of this section and the purpose of medical surveillance; and in addition the employer did not make a copy of this section available without cost to all affected employees:

On or about May 27, 2014, the employer did not ensure that employees that weld on stainless steel and are exposed to hexavalent chromium, could demonstrate knowledge of the contents of this section and the purpose of medical surveillance.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:	12/18/2014
Proposed Penalty:	\$5500.00

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.1200(h)(3)(ii): Employee training did not include the physical and health hazards of the chemicals in the work area:

On or about May 27, 2014, employee training did not include the health hazards associated with welding on stainless steel, including, but not limited to, hexavalent chromium exposure.

ABATEMENT CERTIFICATION REQUIRED PER 29 CFR 1903.19(c)

Date By Which Violation Must be Abated:

12/18/2014

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: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

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

29 CFR 1910.24(b): Fixed stairs were not provided where access to elevations was daily or at each shift for such purposes as gauging, inspection, regular maintenance, etc., where such work may expose employee(s) to acids, caustics, gases, or other harmful substances, or for which purposes the carrying of tools or equipment by hand is normally required:

On or about May 27, 2014, fixed stairs were not provided where access to the platforms in production was daily or at each shift for such purposes as gauging, inspection, regular maintenance, etc., where such work may expose employee(s) to acids, caustics, gases, or other harmful substances, or for which purposes the carrying of tools or equipment by hand is normally required for the following:

- a) Platform deck on the Poly 8 line accessed by maintenance to grease bearings and by sanitation to clean, which required the carrying of tools and/or equipment.
- b) Platform deck on the Poly 3 line accessed by maintenance to grease bearing and by sanitation to clean, which required the carrying of tools and/or equipment.
- c) Platform deck on the Poly 4 with employees working on it which required access daily.
- d) Platform deck on the Poly 7 line accessed by maintenance to grease bearings and by sanitation to clean, which required the carrying of tools and/or equipment.
- e) Moveable steps to tunnel freezer #2 accessed by the tunnel attendant every shift for cleaning, which requires carrying equipment.

Birds Eye Foods, Inc. was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent Standard 29 CFR 1910.24(b), which was contained in OSHA inspection Number 848643, Citation Number 1, Item Number 2 and was affirmed as a final order on June 5 2014, with respect to a workplace located at W8880 County Road X, Darien, WI 53114.

ABATEMENT DOCUMENTATION REQUIRED PER 29 CFR 1903.19(d)

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: 978296
Inspection Date(s): 05/27/2014 - 11/24/2014
Issuance Date: 11/26/2014



Citation and Notification of Penalty

Company Name: Birds Eye Foods, Inc.
Inspection Site: W8880 County Rd X, Darien, WI 53114

Date By Which Violation Must be Abated: 12/18/2014
Proposed Penalty: \$38500.00

A handwritten signature in cursive script, appearing to read "Kimberly A. Stille", written over a horizontal line.

Kimberly A. Stille
Area Director

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