

US Department of Labor

Occupational Safety and Health Administration
Citizen Bank Building
919 Market Street, Suite 900
Wilmington DE 19801-3319
Phone (302) 573-6518 FAX (302) 573-6532
Reply to the attention of: Erin G. Patterson



December 2, 2016

Mr. Jay Griffith
Director of Processing Operations
Mountaire Farms, Inc.
P. O. Box 710
Hosier & Railroad Ave.
Selbyville, DE 19975

Dear Mr. Griffith:

An evaluation of your efforts to address hazards related to the use and storage of peracetic acid (PAA) was completed during the Occupational Safety and Health Administration (OSHA) inspection that commenced on June 30, 2016, at your Selbyville, Delaware worksite.

During the course of this inspection, the OSHA Safety and Occupational Health Compliance Officer discussed conditions and/or practices related to peracetic acid use.

In particular, a 250 gallon-sized chemical tote containing PAA, an organic acid and strong oxidizer, was stored on the floor next to other chemical totes (of the same size) containing an incompatible strong base, sodium hydroxide (NaOH). No secondary containment was provided, exposing employees to the hazards associated with an adverse chemical reaction between these two incompatible chemicals. The filling and emptying process for these totes is visual only, contributing to a possibility of spillage, where the incompatible chemicals could mix.

Decomposition of PAA can be prompted by erroneous contamination with a base such as NaOH. Reactions between strong acid and strong bases produce heat and can be violent. The production of heat during this reaction could increase the decomposition rate of PAA under certain conditions, leading to an uncontrolled reaction.

Pursuant to Section 21 of the Act, which authorizes OSHA to train employers and employees about workplace hazards and appropriate abatement methods, it is recommended that the following steps be taken as a means of reducing the risk of injury to employees working in your facility:

1. Segregate PAA and NaOH totes;
2. Install secondary protection measures, such as dedicated, isolated storage areas with containment curbs for PAA and NaOH totes;
3. Modify the filling and emptying process for the PAA and NaOH totes to include indicators of chemical level that do not rely on visual determination, such as floats/float switches.

Fortunately, no employee injury was reported to be associated with this hazard. However, these safety enhancements are recommended in order to avert potential future accidents. While no OSHA standards appear to address these conditions as noted during the inspection, nor is it considered appropriate at this time to invoke Section 5(a)(1) of the Occupational Safety and Health Act, it should be noted that specific OSHA standards or Section 5(a)(1) may be applicable in the future.

You can find information about safety and health programs, plus an array of electronic e-tools, publications and other information at www.osha.gov.

Your interest in and support of the occupational safety and health of your employees is greatly appreciated. If you have any questions regarding these recommendations, please do not hesitate to contact this office.

Sincerely

A handwritten signature in black ink, appearing to read 'Erin G. Patterson', followed by a horizontal line extending to the right.

Erin G. Patterson
Area Director

US Department of Labor

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December 2, 2016

Mr. Jay Griffith
Director of Processing Operations
Mountaire Farms, Inc.
P. O. Box 710
Hosier & Railroad Ave.
Selbyville, DE 19775

Dear Mr. Griffith:

Following an inspection conducted at your facility located at Selbyville, Delaware, from 06/03/2016 to 12/02/2016, the Occupational Safety and Health Administration (OSHA) issued citations for ergonomic hazards. During the inspection OSHA's Office of Occupational Medicine and Nursing identified characteristics of the facility's medical management program that pose several problems that contribute to injured workers receiving treatments that do not meet accepted standards of care which may contribute to workers developing serious musculoskeletal disorders (MSDs). OSHA's concerns are described below.

1. Mountaire does not Ensure Appropriate Clinical Oversight

For over four years, from February 2012 until September 2016, Mountaire has not provided appropriate clinical supervision for its Licensed Practical Nurse (LPN) and Emergency Medical Technicians (EMTs) at the Shelbyville facility. During this time, two physicians periodically reviewed and signed Mountaire's "Medical Directives and Nursing Procedures" document. Mountaire's LPN and EMTs are under the impression they have been working under the medical licenses of these physicians. However, OSHA spoke with both physicians, who said their involvement with Mountaire was limited to an occasional review of the medical directives. Both physicians unequivocally stated that they have never been Mountaire's medical director, have never supervised Mountaire's clinical providers, and have not allowed Mountaire's LPN and EMTs to work under their medical licenses. No contract or other agreement was provided indicating any other physicians agreed to be medical director at the facility.

LPNs and EMTs possess neither the training nor the legal authority to practice medicine independently. The state of Delaware requires LPNs to work "at the direction and under the supervision of a recognized licensed authority"¹. Typically, LPNs are directly supervised by a Registered Nurse within a system of care in which ultimate oversight is provided by a physician or advanced practice nurse. Similarly, EMTs "function as part of a comprehensive EMS response system, under medical oversight"².

We consider the lack of clinical oversight to be a very important problem. Most of the other issues identified below could have been avoided if a licensed physician or advanced practice nurse had properly supervised Mountaire's LPN and EMTs.

2. Mountaire Providers are Asked to Work Outside Their Scope of Practice

In Delaware, LPN "standards of practice" are defined by the Board of Nursing. LPN scope of practice does not include supervision of other clinicians. Therefore, clinical supervision of EMTs is outside the scope of practice of the Mountaire LPN. In Delaware, the LPN scope of practice does not include medical diagnoses. The North American Nursing Diagnosis Association defines a nursing diagnosis as a description of "human response to actual or potential health problems and life processes," while a medical diagnosis is a "concept that defines a disease process or injury"³. For example, a medical diagnosis of "carpal tunnel syndrome" might result in a nursing diagnosis of "finger pain." Mountaire's medical directives instruct the LPN and EMTs to evaluate and treat medical diagnoses like "Sprains and Strains" despite the fact that making these diagnoses is outside their scope of practice.

National Emergency Medical Services guidelines state that EMT scope of practice includes "basic skills focused on the acute management and transportation of critical and emergent patients"⁴. EMTs are not trained to manage chronic medical conditions, and they must work within an EMS system overseen by a physician. Evaluating work-related injuries and making decisions about work restrictions is not within an EMT's usual scope of practice. Further, no physician provides oversight of the Mountaire EMTs.

3. Medical Directives are Inappropriate

For some work-related disorders, Mountaire's medical directives recommend appropriate evaluation and treatment. In other cases, the directives are incomplete or inappropriate. For example, the "Back Injuries and Back Complaints" section does not instruct the nurse to ask about "red flag" back symptoms that could signify a potentially serious injury. Red flags include fever, incontinence, major trauma, and a history of cancer. Asking about red flag symptoms is an important part of the standard of care for occupational back injuries⁵.

The Mountaire medical directives for "Pain in the Upper Extremity" instruct the nurse to "determine [the] probable cause of pain" and "give restrictions as needed." These directives are inappropriate. LPNs and EMTs are not qualified to make medical diagnoses, nor does their scope of practice permit them to determine work restrictions.

In several places, the medical directives state that injured workers should be referred to a physician "if necessary" or "if indicated." The directives do not explain how to make these determinations. Delegating these decisions to an LPN or EMT is inappropriate, as these decisions fall outside the LPN and EMT scope of practice. Typically, EMTs work under Emergency Medical Services (EMS) protocols that require them to transport *all* patients to a healthcare facility for evaluation by a physician.

Additionally, the medical department frequently distributes NSAIDs. Use of these medications can cause serious health effects including gastrointestinal irritation and increased risk of heart attack. The medical directives do not mention that healthcare providers should warn patients about these side effects.

4. Harm to Workers

Review of Mountaire's medical records revealed several instances in which workers were harmed, or likely to be harmed, by medical management practices at the company. These practices include accepting inappropriate inter-facility transfers, misdiagnosing injuries and illnesses, not assessing tetanus vaccine status for workers who suffer lacerations, accusing injured workers of dishonesty and threatening adverse HR actions, actively discouraging injured workers from seeking treatment at a hospital emergency department, and inappropriately returning injured employees to work with no restrictions.

5. Excessive Delays in Physician Referrals

Some workers visit the Mountaire medical department daily, for up to several months, due to upper extremity pain. One of these workers has signs and symptoms of undiagnosed carpal tunnel syndrome and has not been referred to a physician. Another worker was delayed physician referral for two months and required surgical intervention for carpal tunnel syndrome (CTS). The LPN and EMTs at Mountaire do not always follow the company's written medical directives, which explicitly state that workers must be referred to a physician if their upper extremity pain does not resolve within two weeks. Early physician referral is especially important in the case of suspected CTS because the Mountaire medical directives are completely inappropriate for CTS management. The "Pain in the Upper Extremity" directives instruct Mountaire providers to use ibuprofen, which is not recommended for subacute or chronic CTS pain. The directives do not mention important interventions such as CTS education, nocturnal wrist splinting, and carpal tunnel injections⁶.

6. Mountaire Misrepresents the Credentials of Medical Department Staff

Mountaire has given an EMT the job title "daytime nurse." EMTs are not nurses. They do not possess the same training, qualifications, and credentialing as nurses. Under Delaware law, only registered nurses and LPNs may use the title "nurse"⁷. Mountaire's workers should be informed of the true qualifications of company medical department providers. Unfortunately, based on multiple interviews in which they used the term "nurse" (or "enfermera" in Spanish), Mountaire workers may be under the impression that the company's medical department is staffed by nurses.

7. Lack of Appropriate Medical Recordkeeping

All three medical department healthcare providers stated that they do not document every patient visit. This lack of documentation was confirmed by worker interviews in which injured workers stated that the “nurses” often did not keep notes. As such, there is evidence of missing documentation of many of the in-house treatments provided by the Mountaire medical department. Apparently there is no documentation of the number and frequency of medical department visits by individual workers. Such information is essential to track treatment effectiveness, avoid medication overuse, and comply with protocols that specify when workers must be referred to a physician. Proper documentation is also critical in order for Mountaire’s providers to communicate with one another. The standard of practice for all health care providers, including LPNs and EMTs, is to document every patient interaction, even if the patient received only first aid. Nursing documentation should be accurate, complete, and timely⁸.

Additionally, the medical department does not record the name or dose of medications given to workers. Notes simply state that a worker received “meds.” Workers could be harmed by this practice. Proper documentation of all medications is necessary in order to track treatment efficacy and avoid excessive doses and side effects.

Furthermore, the Mountaire medical department assesses, but does not record, the vital signs of potentially seriously ill patients, such as those with altered mental status. Proper recording of vital signs is essential in order to monitor the patient’s status and communicate this information with other healthcare providers.

8. Environment of Care and Confidentiality

The environment at Mountaire potentially discourages workers from reporting injuries to their supervisors or the medical department, according to interviews of workers. An adverse reporting environment leads to under-reporting of injuries and illnesses, which could prevent Mountaire from adequately assessing workplace hazards.

Nursing notes demonstrate that the medical department contributes to the workplace environment that discourages injury reporting. In one case, the medical department accused a worker of dishonesty and threatened his job after he reported an injury. The injury was later shown to be valid by an outside hospital. Healthcare providers should not accuse patients of dishonesty simply because of a perceived lack of objective findings, nor should they threaten patients.

Confidentiality is breached when the Mountaire medical department relies on co-workers, supervisors, and HR managers to provide interpretation services for non-English-speaking workers. Furthermore, these untrained interpreters may be unfamiliar with medical terminology. To avoid these issues, Mountaire should use a professional medical interpretation service.

In the interest of employee health, we recommend that you voluntarily take the necessary steps to improve medical management practices at the Selbyville, Delaware facility and corporate-wide as appropriate. We recommend you consider the following regarding Mountaire's medical management program:

- Mountaire should consult with a physician who is board-certified in occupational medicine. This physician should evaluate the facility's medical management program and make recommendations concerning structure, staffing, supervision, documentation, medical directives/protocols, and evaluation/quality assurance.
- Mountaire should review Delaware state law regarding scopes of practice, supervision, and other requirements for nurses and EMTs. The company should modify the staffing and practices of the medical department to ensure they meet all legal requirements.
- Decisions about work restrictions should be made in consultation with a physician or other higher level provider. Injured workers' supervisors should not be involved in these decisions.
- The Mountaire medical directives should be updated to meet current standards of medical care. The medical directives should be regularly reviewed, at least annually, by an occupational medicine physician. Specific issues to be addressed include:
 - Early referral to a physician or other higher level provider for definitive evaluation and treatment of injuries.
 - In cases where Mountaire medical department determines that a worker does not need immediate physician evaluation, the worker should be assessed by a physician within a few days if symptoms continue and/or positive examination findings are present.
 - Decrease in the use of NSAIDs for pain treatment and consideration of other pain medications, such as acetaminophen, as medically appropriate.
 - Education of workers on adverse effects of NSAIDs and any other medication being provided in the medical department.
 - Removal of references to any assessments, treatments, physical examination maneuvers, or other procedures that are outside the scope of practice of Mountaire medical department staff.
- Mountaire's medical department staff should review and comply with nursing and EMS documentation standards. All assessments, treatments, and evaluations provided in the medical department should be recorded.
- Interpretation services should be provided by an outside professional medical interpretation service.
- Mountaire should not refer to EMTs as "nurses." The company should ensure that medical department providers communicate their credentials accurately at all times.
- The medical department should not interact with workers in a manner that could discourage them from reporting injuries. In particular, the medical department should not accuse workers of dishonesty or threaten their job status when they report injuries.
- Training of the medical department staff, supervisors and workers should be conducted to include:
 - Identification of musculoskeletal symptoms related to ergonomic hazards;
 - Early reporting of musculoskeletal symptoms, injuries, and illnesses;
 - Effective communication approaches to encourage early reporting.

- OSHA 300 logs, first aid logs and other medical records, such as workers compensation records, should be regularly evaluated for the purpose of identifying workplace hazards, instituting interventions to reduce hazards and evaluating the effectiveness of the interventions. The occupational medicine physician consultant should participate in this review.

These methods are not meant to be the only ones available or feasible. OSHA welcomes and requests a report of any of your efforts to reduce the above-mentioned exposures and the results of your efforts.

Sincerely,



Erin G. Patterson
Area Director

REFERENCES

¹ State of Delaware. 2016. Delaware Regulations: Administrative Code: Title 24: 1900 Board of Nursing. Available at: <http://regulations.delaware.gov/AdminCode/title24/1900.shtml> [accessed 2016 October 17]

² National Registry of Emergency Medical Technicians. 2016. EMT Certification. Available at: <https://www.nremt.org/rwd/public/document/emt> [accessed 2016 October 17].

³ NANDA International. *What is the difference between a medical diagnosis and a nursing diagnosis?* Available at: <http://kb.nanda.org/article/AA-00266/0/What-is-the-difference-between-a-medical-diagnosis-and-a-nursing-diagnosis-.html> [accessed 2016 October 17].

⁴ National Highway Traffic Safety Administration. 2007. *National EMS Scope of Practice Model*. Available at: www.ems.gov/education/EMSScope.pdf [accessed 2016 October 17].

⁵ American College of Occupational and Environmental Medicine. *Low Back Disorders*. In Hegmann K. T. ed. *Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers*. ACOEM: Elk Grove Village, IL, 2011.

⁶ American College of Occupational and Environmental Medicine. *Carpal Tunnel Syndrome*. In Hegmann K. T. ed. *Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers*. ACOEM: Elk Grove Village, IL, 2011.

⁷ State of Delaware. 2016. Title 24, section 19: Nursing. Section 1920, License requirements; use of abbreviations. Available at: <http://delcode.delaware.gov/title24/c019/> [accessed 2016 October 17].

⁸ American Nurses Association. *ANA's Principles for Nursing Documentation*. Silver Spring, MD: ANA; 2010.

**Este documento es muy importante. Si ud. No habla inglés,
busque un traductor o llame al (302) 573-6518.**

U.S. Department of Labor Occupational Safety and Health Administration
919 Market Street Suite 900
Wilmington, DE 19801
Phone: (302) 573-6518 Fax: (302) 573-6532



December 2, 2016

Dear Jay Griffith,

On 06/03/2016, an OSHA compliance officer met with you or your representative as part of an inspection at 55 Hosier Street Selbyville, DE 19975. This letter includes the citations for the violations that were found (see summary below). Please choose one of the three options from the box to the right and complete the associated steps found on the following page **within 15 working days**. Please call us if you have any questions about the enclosed citation and/or penalties; we are here to help you choose the best option to resolve your citation as quickly as possible.

Sincerely,

Erin G. Patterson, Area Director

Your Citation Summary
Mountaire Farms, Inc.
Inspection Number: 1152666

Total Amount Due: \$30823.00
Payment Due Date: 15 working days
after receipt of
this letter

You must correct each violation by the date listed in the Citation and Notification of Penalty. Please see the violations and the correction deadline for each violation starting on page 6.

Total Number of Violations : 3

Your First Correction Deadline is:
12/19/2016

Step 1 – Choose a Response
Option and
Act within 15 working days

Respond now before you lose the ability to discuss potential adjustments to penalty amounts and/or due dates. Please choose one option below and complete the steps on the next page.

Option #1 – Discuss with OSHA

I would like to discuss the citation with an OSHA representative. This may lead to changes in the penalty amount, due date or correction deadlines (if appropriate).

Option #2 – Correct and Pay

I agree with the citation, penalties, and correction deadlines, and do not contest.

Option #3 – Contest the Citation

I do not agree with the citation, penalties, and/or correction deadlines, and would like to contest.

Questions or Concerns?

If you have any questions or concerns regarding the citation, penalties, and/or correction deadlines, please call us at (302) 573-6518.

Step 2 – Complete One Option Checklist

Please post a copy of the citation at or near the place where each violation occurred, even if you plan to contest. You can use the checklist to the right to help plan your next steps. Please do not send in your checklist.

Option #1 – Discuss with OSHA

I will complete by:



1. Call: Erin G. Patterson, Area Director, at (302) 573-6518 as soon as possible to schedule a meeting with an OSHA representative that must occur **within 15 working days** of receiving this citation. Bring supporting documentation of existing conditions and corrections done thus far. If necessary, you can still contest the citation after this meeting. ****This meeting does NOT extend your 15 working day deadline to contest the citation.****

☐ __ / __

2. Fill in and post the attached "Notice to Employees OSHA Informal Conference" after scheduling meeting.

☐ __ / __

Option #2 – Correct Violations and Pay Penalty

I will complete by:



1. Correct violations, then complete and mail the attached "Certification of Corrective Action Worksheet" along with the appropriate evidence of repair (e.g. photos, purchase orders, etc.) to the OSHA office listed on the first page, **postmarked within 10 calendar days after each violation's correction deadline and include any required evidence. If these documents are transmitted by means other than mailing, the date the Agency received the documents is the date of submission.**

☐ __ / __

2. Pay the **Total Penalty** by using one of the following methods:
****Include your Inspection Number (see first page) on the payment.****

☐ __ / __

Pay Online: Search "OSHA" on www.pay.gov and complete the "OSHA Penalty Payment Form." Pay by debit, credit or Automated Clearing House (ACH) **within 15 working days**. Penalties over \$25,000 must be paid by ACH and require a Transaction ID (Call 202-693-2170 to obtain one).

Pay by Check: Mail check or money order payable to "DOL-OSHA" for the Total Penalty to the OSHA office listed on the first page **within 15 working days**.

Option #3 – Contest the Citation

I will complete by:



Mail a letter of intent to legally contest to the OSHA office listed on the first page, **postmarked within 15 working days.**

☐ __ / __

U.S. Department of Labor
Occupational Safety and Health Administration
919 Market Street
Suite 900
Wilmington, DE 19801
Phone: 302-573-6518 Fax: 302-573-6532



Citation and Notification of Penalty

To:
Mountaire Farms, Inc.
55 Hosier Street
P.O. Box 710
Selbyville, DE 19975

Inspection Number: 1152666
Inspection Date(s): 06/03/2016 - 11/30/2016
Issuance Date: 12/02/2016

Inspection Site:
55 Hosier Street
Selbyville, DE 19975

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or you mail a notice of contest** to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type “OSHA” and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide **abatement certification** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that **abatement documentation** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 12/02/2016. The conference will be held by telephone or at the OSHA office located at 919 Market Street, Suite 900, Wilmington, DE 19801 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1152666

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975
Issuance Date: 12/02/2016

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 919 Market Street, Suite 900, Wilmington, DE 19801**

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

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

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

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

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

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

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature _____

Date _____

Typed or Printed Name _____

Title _____

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical harm to employees, in that employees were required to perform manual tasks involving ergonomic risk factors including, but not limited to, excessive force and exertion, repetitive motions, and awkward postures resulting in ergonomic stressors that caused or are likely to cause musculoskeletal disorders (MSDs) including, but not limited, to tendonitis, carpal tunnel syndrome, trigger thumb, and shoulder pain:

- a) Cone Debone DS and NS: On or about June 3, 2016 and at times prior and since, employees perform tasks that require the use of scissors and/or knives to remove chicken parts, fat, and cartilage in a repetitive, forceful motion for extended periods of time and often in awkward positions exposing employees to ergonomic stressors that cause MSDs. The positions include, but are not limited to, 1st and 2nd Shoulder Cutter, Wing Cutter, Breast Puller, Breast Trimmer, Tenders Scorer, Tenders Trimmer, and Tenders Puller.
- b) Cone Debone DS and NS: On or about June 3, 2016 and at times prior and since, employees on the cone debone line perform tasks that require torso twisting and manually handling chickens onto the cone line conveyor in a repetitive motion for extended periods of time and often in awkward positions exposing employees to ergonomic stressors that cause MSDs. The positions include, but are not limited to, Cone Loader.

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: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

The employer may adopt any measures that are effective in reducing or eliminating the risk factors for MSDs. Specific feasible methods for abating the ergonomic hazards include, but are not limited to:

Engineering Controls:

1. Load cone, shoulder cut, wing cut, breast pull, breast trim, tender score, tender trim, tender pull - Adjustable height platforms should be individual stands, adjustable to the appropriate height for the employee, have a foot rail to alleviate the stress of standing. Adjust the stands in between rotations to ensure that employees are working with minimal stressors caused by awkward shoulder and hand positions. Train employees on how work height affects neutral posture. During new employee training, employees should demonstrate that they adjust the work platform to a height that minimizes neck, back, shoulder and wrist non-neutral postures. Consider numbering the slots on the work platform stand, so height adjustments can be easily replicated.
2. Shoulder cut, tender score - Provide knives with ergonomic handles designed for repetitive tasks to reduce awkward hand postures. Increase knife sharpening frequency on and off the lines to reduce force requirements to less than 10% of maximum grip strength. Position the on-line sharpener to reduce reaching and minimize non-neutral shoulder and hand postures.
3. Wing cut - Evaluate the knives and handle orientation and provide the most appropriate tool to employees.
4. Breast trim, tender trim - Provide scissors with small, medium and large handles. Handles should be contoured and soft to avoid contact stress with the finger. Replace scissors when dull or at least every 4 hours.
5. Develop a knife and scissors sharpening program to include a schedule for replacing knives and scissors for every department, inspection procedures to ensure sharpness, proper sharpening techniques, and procedures for employees to request sharpening or a new tool if it can't be sharpened by them. Include spare knives and scissors on the lines so that dull or worn ones can be removed immediately. Develop and introduce knife and scissor replacement standards that specify end of life indicators for triggering replacement. Replace knives and scissors as needed based on usage. Employees should be trained on the program, frequency of sharpening, and how to properly sharpen. Worn knives and scissors should be taken out of service immediately.

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: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

6. Install a training line so that new hires, temporary employees and employees learning new tasks can be trained on the proper position, height, and technique without torso twisting and the stress of keeping up with the line speed. Develop a work hardening program so that employees are on the training line for a progressively increased amount of time in order to strengthen muscles and reduce soreness and pain.

Administrative Controls:

1. Breast Pull - Reduce the force to pull the breast from the bone by getting more complete shoulder cuts and not allowing the meat to get too cold.
2. Educate all employees including management about basic ergonomics principles and proper body positioning. Training should be conducted prior to assignment and periodically throughout the year to reinforce the importance of the ergonomic measures and their wellbeing. Training should emphasize proper techniques including work height and grip and increase the understanding of the importance of avoiding harmful and hazardous postures and procedures. New hires and temporary employees should be trained on how to work in neutral postures, to keep wrists straight, use of maximum grip strength, and why deviations from these positions lead to injuries. Training should also be conducted for management (line leaders and supervisors included) since they can assess and encourage proper work techniques. Training will also increase their knowledge of the subject allowing them to make better purchasing and work organization decisions. Maintenance personnel also need this type of training since they often adjust and maintain equipment, to include workstations, at the work site and can be an invaluable source of ideas about development of new tools or equipment modifications that can reduce the hazard to the employees.
3. A rotation schedule should be developed, written, and implemented for each department with ergonomic stressors in order to minimize employees being rotated to positions with similar muscle use and tool use. Bonus positions should be included in this rotation. Rotations should be to other tasks to prevent continuous use of tools such as knives and scissors. Incorporate micro-breaks during each task rotation to allow employees time to stretch and rest muscles.

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: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

Ergonomic Program and Medical Management:

1. Conduct an ergonomic assessment, by a certified professional ergonomist, industrial engineer, or other qualified professional, of the deboning and tray pack tasks and jobs. The ergonomist, or other qualified professional, shall provide a job hazard analysis and recommendations for reducing or eliminating ergonomic risk factors from the work of the employees performing repetitive hand activity. The company should implement controls to eliminate the hazard or reduce the hazard to more acceptable levels.
2. Develop a participatory ergonomics team. The composition of the team should be multi-disciplinary, including at least four hourly employees, union representation, plant management, engineering, maintenance, medical, and safety. The team should receive base training to achieve a basic competence in ergonomic hazard identification, principles, and risk reduction approaches with ongoing training and education. The team should solicit employee suggestions and follow-up on resolution to the suggestions. The team should provide input to changes in layout and hand tool selection. The committee should consult a certified professional ergonomist or other qualified professional to review repeated concerns and conduct independent and joint audits.
3. An outside expert in medical management protocols should review the medical management protocols for treating musculoskeletal injuries and education for employees on early reporting. The review of the protocol should include recommendations for alternate duty (e.g., time on alternate tasks/reassignment options for restricted duty) and appropriate indicators necessary to refer employees to a doctor or specialist. The expert should conduct initial plant EMT training and follow-up training. The expert should provide an annual review of trends in the Protocol log and recommend changes in the protocol based on the trends.
4. Injuries that do not have adequate time to recover take more time to heal or become more serious injuries. Employees must understand the importance of early reporting of musculoskeletal disorders and must receive treatment that is consistent with accepted practices in occupational medicine.
5. Allow employees who report musculoskeletal pain or who are on work restrictions due to a musculoskeletal injury to be reassigned to tasks with no, little, or different ergonomic stressors.

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: 1152666
Inspection Date(s): 06/03/2016 - 11/30/2016
Issuance Date: 12/02/2016



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/23/2017
Proposed Penalty:	\$12471.00

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



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

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

29 CFR 1910.303(b)(7)(iv): There were damaged parts that could adversely affect safe operation or mechanical strength of the equipment, such as parts that were broken, bent, cut, or deteriorated by corrosion, chemical action, or overheating:

a) 55 Hosier Street, Selbyville, DE (Deboning - Line #4) - On or about August 31, 2016, the employer failed to replace or repair damaged parts which could adversely affect safe operation of the electrical equipment, in that the cover plate for an electrical 120-volt receptacle was not affixed to the metallic outlet box, exposing employees operating the powered foot control to electrical shock hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$5881.00



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

Citation 1 Item 3 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:

(a) D/S Tray Pack Line #4 - On or about June 3, 2016, the employer failed to ensure that employees engaged in servicing and maintenance, to include but not limited to troubleshooting and inspection, of the OSSID machine utilized documented energy control procedures, exposing employees to moving machine parts and nip points.

Pursuant to 29 CFR 1903.19, the employer must submit abatement certification and documentation, required within 10 days after abatement date. The certification shall include a statement that abatement is complete, the date and method of abatement, and state that employees and their representatives were informed of this abatement. Abatement documentation shall include documents demonstrating that abatement is complete, such as evidence of the purchase or repair of equipment, photograph or video evidence of abatement or other written records.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

12/19/2016
\$12471.00

A handwritten signature in black ink, appearing to read "Erin G. Patterson".

Erin G. Patterson
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
919 Market Street
Suite 900
Wilmington, DE 19801
Phone: 302-573-6518 Fax: 302-573-6532



INVOICE / DEBT COLLECTION NOTICE

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975
Issuance Date: 12/02/2016

Summary of Penalties for Inspection Number	1152666
Citation 1, Serious	\$30823.00
TOTAL PROPOSED PENALTIES	\$30823.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Erin G. Patterson

Area Director



Date



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

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

29 CFR 1910.119(d)(3)(ii): The employer did not document that equipment complies with recognized and generally accepted good engineering practices (RAGAGEP):

(a) Engine Room No. 2 - On or about June 30, 2016, the employer was not in compliance with RAGAGEP exposing employees to hazards posed by a potential ammonia release:

1. Only one ammonia sensor was installed inside this room.
2. Only one alarm the annunciated visually was installed inside this room. No other alarms were installed outside an entrance to this room.
3. The automatic exhaust system was impeded as inoperable manual intake louvers, rather than louvers with dampers of a fail-open power-closed type, were used.

Pursuant to 29 CFR 1903.19, the employer must submit abatement certification, required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

Provide listed electrical equipment for these rooms or provide documentation of compliance with the referenced ANSI/ASHRAE Standard as abatement. Follow ASHRA 15 and the International Institute of Ammonia Refrigeration (IIR) Bulletin No. 111 for guidance on the installation of ammonia sensors & alarms, and ventilation intake louvers.

Note: The American National Standards Institute / American Society of Heating, Refrigeration and Air-Conditioning Engineers Standard (ANSI/ASHRAE Standard 15-2013, Safety Standard for Refrigeration Systems) precludes ammonia machine rooms from being classified as Class 1, Division 2 locations if the provisions contained in section 8.12(h) of the same Standard are not met.

Date By Which Violation Must be Abated:
Proposed Penalty:

01/23/2017
\$7839.00

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

Inspection Number: 1159268
Inspection Date(s): 06/30/2016 - 11/30/2016
Issuance Date: 12/02/2016



Citation and Notification of Penalty

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975

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

29 CFR 1910.132(h)(1): Except as provided by paragraphs (h)(2) through (h)(6) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, was not provided by the employer at no cost to employees:

(a) Mountaire Farms, Inc., Selbyville, DE - On or about August 31, 2016, the employer was not providing PPE, such as equipment for hearing protection, hand protection, and eye protection, at no cost to employees.

Pursuant to 29 CFR 1903.19, the employer must submit abatement certification, required within 10 days after abatement date. The certification shall include a statement that abatement is complete, date and method of abatement, and states employees and their representatives were informed of this abatement.

Date By Which Violation Must be Abated:
Proposed Penalty:

12/09/2016
\$1100.00

A handwritten signature in black ink, appearing to read "EGPatt", written over a horizontal line.

Erin G. Patterson
Area Director

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
919 Market Street
Suite 900
Wilmington, DE 19801
Phone: 302-573-6518 Fax: 302-573-6532



INVOICE / DEBT COLLECTION NOTICE

Company Name: Mountaire Farms, Inc.
Inspection Site: 55 Hosier Street, Selbyville, DE 19975
Issuance Date: 12/02/2016

Summary of Penalties for Inspection Number	1159268
Citation 1, Serious	\$7839.00
Citation 2, Other-than-Serious	\$1100.00
TOTAL PROPOSED PENALTIES	\$8939.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

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Erin G. Patterson

Area Director



Date