

U.S. Department of Labor
Occupational Safety and Health Administration
1310 W. Clairemont Avenue
Eau Claire, WI 54701
Phone: 715-832-9019 Fax: 715-832-1147



Citation and Notification of Penalty

To:
Burnett Dairy Cooperative
P.O. BOX 249
Grantsburg, WI 54840

Inspection Number: 1009946
Inspection Date(s): 11/21/2014 - 12/02/2014
Issuance Date: 05/06/2015

Inspection Site:
11631 State Road 70
Grantsburg, WI 54840

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 05/06/2015. The conference will be held by telephone or at the OSHA office located at 1310 W. Clairemont Avenue, Eau Claire, WI 54701 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1009946

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840
Issuance Date: 05/06/2015

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, 1310 W. Clairemont Avenue, Eau Claire, WI 54701**

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: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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 1 a Type of Violation: **Serious**

29 CFR 1910.146(d)(3): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations:

(a) Feed and Grain Division; The employer did not ensure confined space procedures were implemented and enforced when entering permit spaces including, but not limited to, the grain pits.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/04/2015
Proposed Penalty:	\$6300.00



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.146(d)(9): The employer did not develop and implement procedures for summoning rescue and emergency services, for rescuing entrants from permit spaces, for providing necessary emergency services to rescued employees, and/or for preventing unauthorized entry:

- (a) Feed and Grain Division; The employer did not develop and implement procedures for summoning rescue and emergency services, for rescuing entrants from permit spaces, and for preventing unauthorized entry to spaces including, but not limited to, the grain pits.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

06/04/2015

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

Inspection Number: 1009946
Inspection Date(s): 11/21/2014 - 12/02/2014
Issuance Date: 05/06/2015



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.146(e)(1): Before entry was authorized, the employer did not document the completion of measures required by 29 CFR 1910.146(d)(3) by preparing an entry permit:

- (a) Feed and Grain Division; The employer did not ensure permits were filled out before employees entered permit spaces including, but not limited to, the grain pits.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

06/04/2015

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: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.146(g)(1): The employer did not provide adequate training so that all employees whose work was regulated by 29 CFR 1910.146 (permit required confined spaces) acquired the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under 29 CFR 1910.146:

- (a) Feed and Grain Division; The employer did not provide effective training to employee(s) entering permit spaces to ensure they understood their duties and were knowledgeable on the skills necessary to safely enter and perform tasks when entering the grain pits; deficiencies in training, included but were not limited to, lack of filling out confined space permits, not testing air quality before entry into permit spaces, and not ensuring all other hazardous conditions had been eliminated before entry.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/04/2015
Proposed Penalty:	\$6300.00

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

Inspection Number: 1009946
Inspection Date(s): 11/21/2014 - 12/02/2014
Issuance Date: 05/06/2015



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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) Feed and Grain Division; Procedures were not developed, documented and utilized for the control of potentially hazardous energy in areas including, but not limited to; the grain pits, grain bins, hammer mill, roller mill, bagger, load out bins, and the mixers.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$6300.00

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: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.147(c)(7)(i)(A): Authorized employee(s) did not receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control:

- (a) Feed and Grain Division; Authorized employees did not receive adequate training in the recognition of applicable hazardous energy sources, the type and magnitude of energy available in the workplace, and the methods and means necessary for energy isolation and control in areas including, but not limited to; the grain pits, grain bins, hammer mill, roller mill, bagger, load out bins, and the mixers.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/04/2015
Proposed Penalty:	\$6300.00

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

Inspection Number: 1009946
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Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.272(e)(1): The employer did not provide training to employees at least annually and when changes in job assignments would expose them to new hazards in the grain handling facilities:

- (a) Feed and Grain Division, Brock Wet Bin; The employer did not provide additional training prior to employees job assignments changing, which exposed employee(s) to new hazards of entering a bin, to unplug three sumps with greater amounts of corn than employee(s) were accustomed to.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

06/04/2015
\$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

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Issuance Date: 05/06/2015



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.272(g)(2): When employees entered the grain handling facility storage structures from a level at or above the level of stored grain, or whenever an employee walks or stands on or in stored grain of a depth which poses an engulfment hazard, the employer did not ensure the employee was equipped with a with a lifeline or alternative means to prevent the employee from sinking further than waist-deep into the grain:

- (a) Feed and Grain Division, Brock Wet Bin; The employer did not ensure the lifeline effectively prevented the entrant from sinking further than waist-deep into the corn. On November 21, 2014 an employee was engulfed in corn and died from asphyxiation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

06/04/2015
\$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: 1009946
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Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.272(g)(4): The employer did not provide equipment for rescue operations, which was specifically suited for the bin, silo, or tank being entered:

- (a) Feed and Grain Division, Brock Wet Bin; Prior to bin entry, the employee acting as an observer during a corn bin entry was not provided with equipment for rescue operations. On November 21, 2014 an employee was engulfed in corn and died from asphyxiation, the observer had no way of pulling the employee to safety through the rope method utilized.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

06/04/2015
\$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: 1009946
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Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.272(g)(5): The employee acting as an observer for bin, tank, or silo entry operations in the grain handling facility was not trained in rescue procedures, including notification methods for obtaining additional assistance:

- (a) Feed and Grain Division, Brock Wet Bin; The employee acting as the observer was not trained effectively in necessary rescue procedures for employee(s) entering corn bins.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

06/04/2015
\$7000.00

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: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

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

29 CFR 1910.272(g)(1)(ii): Prior to entry, all mechanical, electrical, hydraulic, and pneumatic equipment which presented a danger to employees inside grain storage structures in the grain handling facility were not disconnected, locked-out and tagged, blocked-off, or otherwise prevented from operating by other equally effective means or methods:

- (a) Feed and Grain Division, Brock Wet Bin; The employer did not ensure that the drag conveyor was effectively deenergized and locked out prior to the employee entering the bin. On November 21, 2014 an employee was engulfed in corn and died from asphyxiation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/04/2015
Proposed Penalty:	\$70000.00

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

Inspection Number: 1009946
Inspection Date(s): 11/21/2014 - 12/02/2014
Issuance Date: 05/06/2015



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

Citation 2 Item 2 Type of Violation: **Willful**

29 CFR 1910.272(g)(1)(iv): The employer did not prohibit "walking down grain" and similar practices where the employee walks on grain to make it flow within or out from a grain storage structure, or where an employee is on moving grain:

- (a) Feed and Grain Division, Brock Wet Bin; While attempting to unclog sump(s) within the bin an employee was exposed to moving corn, creating an engulfment hazard. On November 21, 2014 an employee was engulfed in corn and died from asphyxiation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/04/2015
Proposed Penalty:	\$70000.00

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: 1009946
Inspection Date(s): 11/21/2014 - 12/02/2014
Issuance Date: 05/06/2015



Citation and Notification of Penalty

Company Name: Burnett Dairy Cooperative
Inspection Site: 11631 State Road 70, Grantsburg, WI 54840

Citation 3 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1910.272(g)(1)(iii): The atmosphere within a bin, silo, or tank in the grain handling facility was not tested for oxygen content prior to employee entry:

- (a) Feed and Grain Division, Brock Wet Bin; The employer did not ensure that atmospheric testing was conducted prior to and during bin entry when continuous ventilation was not provided.

Date By Which Violation Must be Abated:

05/14/2015

Proposed Penalty:

\$0.00

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

Mark Hysell
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
1310 W. Clairemont Avenue
Eau Claire, WI 54701
Phone: 715-832-9019 Fax: 715-832-1147



INVOICE / DEBT COLLECTION NOTICE

Company Name: BURNETT DAIRY COOPERATIVE
Inspection Site: 11631 STATE Road 70, Grantsburg, WI 54840
Issuance Date: 05/06/2015

Summary of Penalties for Inspection Number	1009946
Citation 1, Serious	\$53,200.00
Citation 2, Willful	\$140,000.00
Citation 3, Other-than-Serious	\$0.00
TOTAL PROPOSED PENALTIES	\$193,200.00

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.

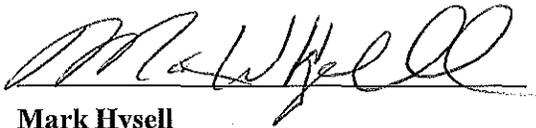
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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.



Mark Hysell

Area Director



Date