

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
444 Regency Parkway Dr.  
Lake Regency Office Bldg, Ste. 303  
Omaha, NE 68114  
Phone: (402)553-0171 FAX: (402)551-1288



## Citation and Notification of Penalty

**To:**  
C.O. Grain, Inc.  
and its successors  
P.O. Box 400  
Atkinson, NE 68713

**Inspection Number:** 314060989  
**Inspection Date(s):** 06/08/2011-06/08/2011  
**Issuance Date:** 11/28/2011

**Inspection Site:**  
87784 474th  
Atkinson, NE 68713

*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 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. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

**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 page 5 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.

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

**Notification of Corrective Action** - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

**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 your inspection will be available 7 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.

THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 affords workers the right to a safe workplace. OSHA requires employers to provide a workplace that is free of serious recognized hazards and in compliance with OSHA standards. Workers have the right to FILE A COMPLAINT WITH OSHA if they believe that there are either violations of OSHA standards or serious workplace hazards. Contact the OSHA Area office nearest you or contact our toll free number: 1-800-321-OSHA (6742)... TTY 1-877-889-5627. To file a complaint online or obtain information on your rights in the workplace, visit OSHA's website at [www.osha.gov](http://www.osha.gov).

**ABATEMENT CERTIFICATION**

Bonita Winingham, Area Director  
U.S. Department of Labor - OSHA  
444 Regency Parkway Dr.  
Lake Regency Office Bldg, Ste. 303  
Omaha, NE 68114  
Phone: (402)553-0171

C.O. Grain, Inc.  
P.O. Box 400  
Atkinson, NE 68713

The hazard referenced in Inspection Number 314060989 for violation identified as:

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_.

Method of correction: \_\_\_\_\_

\_\_\_\_\_  
\*Abatement documentation is enclosed.  check if applicable

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_.

Method of correction: \_\_\_\_\_

\_\_\_\_\_  
\*Abatement documentation is enclosed.  check if applicable

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_.

Method of correction: \_\_\_\_\_

\_\_\_\_\_  
\*Abatement documentation is enclosed.  check if applicable

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(email address)

\_\_\_\_\_  
Typed or Printed Name



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 11/28/2011. The conference will be held at the OSHA office located at 444 Regency Parkway Dr., Lake Regency Office Bldg, Ste. 303, Omaha, NE, 68114 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.



### Citation and Notification of Penalty

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

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

29 CFR 1910.27(d)(1)(ii):

Fixed ladders extending greater than 20' above the ground were not constructed with cages or other ladder safety devices:

The employer is failing to protect employees from potential fall hazards associated with employees using a fixed ladder to access the grain bins by climbing through the top access hatch. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees climbing the 36' tall fixed ladder, without a cage or other ladder safety device, to access the top of the grain bins through an access panel while conducting bin entry.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/16/2011
Proposed Penalty:	\$ 4200.00

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See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.27(d)(2):

Where ladders are used to ascend to heights exceeding 20 feet landing platforms shall be provided for every 30' unless the ladder is not provided with a cage or other acceptable fall hazards then platforms shall be provided for every 20':

The employer is failing to protect employees from potential fall hazards associated with employees using a fixed ladder to access the grain bins by climbing through the top access hatch. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees climbing the 36' tall fixed ladder, without a rest platform every 20-30 feet, to access the top of the grain bins through an access panel while conducting bin entry.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**Date By Which Violation Must be Abated:** 12/16/2011



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

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

29 CFR 1910.134(c)(1):

A written respiratory protection program that included the provisions in 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use:

The employer is failing to protect employees from potential respiratory hazards associated with employees using N95 respirators while working around grain dust. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer requires employees to wear a N95 respirators anytime they are conducting grain bin entry and the company has not developed a written respiratory program to manage the use of respirators and personnel at this facility.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.134(e)(1):

The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

The employer is failing to protect employees from potential respiratory hazards associated with employees using N95 respirators while working around grain dust without having been medically evaluated. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer requires employees to wear a N95 respirator anytime they are conducting grain bin entry and the company has not had the employees evaluated by a medical professional to eliminate the inherent risks of wearing a tight fitting respirator while working.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**Date By Which Violation Must be Abated:** 12/30/2011



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.134(f)(2):

Employee(s) using a tight-fitting facepiece respirator were not annually fit tested:

The employer is failing to protect employees from potential respiratory hazards associated with employees using N95 respirators while working around grain dust without having been annually fit tested. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer requires employees to wear a N95 respirator anytime they are conducting grain bin entry and the company has not fit tested the employees with the respirators to ensure a tight and effective seal when in use.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**Date By Which Violation Must be Abated:** 12/30/2011



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

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

29 CFR 1910.219(d)(1):

Pulley(s) with part(s) seven feet or less from the floor or work platform were not guarded in accordance with the requirements specified in 29 CFR 1910.219(m) and (o):

The employer is failing to protect employees from potential amputation hazards associated with failing to guard in-going nip points on belts and pulleys. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees working in all areas of the facility and directly exposed to unguarded belt and pulley assembly on the auger located outside the middle grain bin.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/16/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.219(e)(1)(i):

Horizontal belts which had both runs seven -7 feet or less from the floor level were not guarded with a guard that extended to at least fifteen inches above the belt:

The employer is failing to protect employees from potential amputation hazards associated with failing to guard in-going nip points on belts and pulleys. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees working in all areas of the facility and directly exposed to unguarded belt and pulley assembly on the auger located outside the middle grain bin.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

**Date By Which Violation Must be Abated:** 12/16/2011



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(d):

The employer did not develop and implement an emergency action plan meeting the requirements contained in 1910.38(a):

The employer failed to develop and implement an emergency action plan. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees handling grain in accordance with the definitions of this subpart without having developed an emergency action plan either verbal or written designed to protect employees in the event of catastrophic events while working in the facility.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



### Citation and Notification of Penalty

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(e)(1)(ii):

Current employees, and new employees prior to starting work in the grain handling facility were not trained in the specific procedures and safety practices applicable to their job tasks including but not limited to cleaning procedures for grinding equipment, clearing procedures for choked legs, housekeeping procedures, hot work procedures, preventive maintenance procedures, and lockout/tagout procedures:

The employer failed to provide annual training on grain handling procedures to employees in accordance with this subpart. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has untrained employees handling grain in accordance with the definitions of this subpart without having provided them specific and focused training on the various hazards associated with working in a grain facility. Instances include but are not limited to:

- i. Employees handling grain without having been instructed on specific procedures for cleaning equipment that decreases airborne dust.
- ii. Employees handling grain without having been instructed on the inhalation hazards associated with moving grain.
- iii. Employees maintain equipment that handles grain without being trained on Lockout and Tag out.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(e)(2):

Employees assigned special tasks in the grain handling facility, such as bin entry and handling of flammable or toxic substances, were not provided training to perform these tasks safety:

The employer failed to provide employees with grain bin entry procedure training in accordance with this subpart. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has untrained employees entering grain bins from both the top and bottom to inspect the grain and perform maintenance on the auger without having provided the employees adequate training on the hazards associated with entering grain bins. Instances include but are not limited to:

- i. Employees entering grain bins without testing the atmosphere for air quality.
- ii. Employees entering grain bins without wearing any rescue equipment.
- iii. Employees entering grain bins without filling out any bin entry permits.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

Company Name: C.O. Grain, Inc.  
Inspection Site: 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(g)(1)(i):

The employer did not issue a permit for entering bins, silos or tanks in the grain handling facility before the employees entered the bins, silos, or tanks:

The employer failed to protect employees from potential atmosphere and engulfment hazards associated with failing to develop and implement grain bin entry permits prior to employees entering grain bins. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins to inspect the grain and perform maintenance on the bins and augers without having filled out a grain bin entry permit in accordance with this subpart.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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**Citation 1 Item 8** 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:

The employer failed to provide employees with rescue equipment necessary for conducting safe grain bin entry. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins from both the top and bottom to inspect the grain and perform maintenance on the auger without having provided the employees rescue equipment necessary in pulling the employee clear of the grain bin in the event of an emergency or accident.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

<b>Date By Which Violation Must be Abated:</b>	<b>12/16/2011</b>
<b>Proposed Penalty:</b>	<b>\$ 4200.00</b>



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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**Citation 1 Item 9** 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:

The employer failed to provide employees assigned the duties as bin entry attendant with mandated training outlining the hazards associated with bin entry and training the attendant on the procedures necessary in the event of an emergency. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins and an untrained employee performing attendant duties in that the employer has not provided the attendant adequate training on the procedures on how to rescue the entrant from inside the bin in the event of an emergency.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 4200.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(j)(1):

The employer did not develop and implement a written housekeeping program that established the frequency and the method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces in the grain handling facility:

The employer failed to develop and implement a written housekeeping program. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees handling and moving grain between the company's 4 bins and flat storage without a housekeeping program and verbally instructing employees to keep the facility as clean as possible without having identified the specific hazards associated with moving grain around the facility.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 3000.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(m)(4):

The employer did not implement procedures in the grain handling facility for the use of tags and locks which would prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury:

The employer failed to develop and implement a written Lockout and Tag out program. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer requires employees to perform maintenance on augers without having developed and implemented a written Lockout and Tag out program.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

<b>Date By Which Violation Must be Abated:</b>	12/30/2011
<b>Proposed Penalty:</b>	\$ 4200.00



### Citation and Notification of Penalty

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

#### Citation 1 Item 12a Type of Violation: **Serious**

29 CFR 1910.1200(e)(1):

The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

The employer failed to protect employees from potential chemical hazards associated with failing to develop and implement Hazardous Communications Program. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees using grease, petroleum products such as oil and fuel as well as degreasers while working throughout the facility without having developed a Hazardous Communications Program to address the procedures necessary to prevent injury or illness.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 3000.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.1200(g)(8):

The employer did not maintain copies of the required material safety data sheets for each hazardous chemical in the workplace:

The employer failed to maintain material safety data sheets on hazardous chemicals used by employees in the performance of their duties. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees using grease, petroleum products such as oil and fuel as well as degreasers while working throughout the facility without providing access to material safety data sheets to the employees.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

**Date By Which Violation Must be Abated:** 12/30/2011



### Citation and Notification of Penalty

Company Name: C.O. Grain, Inc.  
Inspection Site: 87784 474th, Atkinson, NE 68713

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#### Citation 1 Item 12c Type of Violation: **Serious**

29 CFR 1910.1200(h)(1):

Employees were not provided effective information and training as specified in 29 CFR 1910.1200(h)(1) and -2 on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard was introduced into their work area:

The employer failed to provide employees training on the hazards associated with working with hazardous chemicals while working in a grain facility. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has untrained employees using grease, petroleum products such as oil and fuel as well as degreasers while working throughout the facility.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated: 12/30/2011



### Citation and Notification of Penalty

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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#### 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 prevented from operating by other means or methods:

The employer failed to protect employees from potential electrical and amputation hazards associated with failing to lockout or tag out augers in the grain bins prior to employees entering grain bins. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins to inspect the grain and perform maintenance on the bins and augers without applying locks or tags on the circuit breakers located on the control panel in the middle of the property.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/16/2011
Proposed Penalty:	\$ 28000.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

29 CFR 1910.272(g)(1)(iii):

The atmosphere within a bin, silo, or tank in the grain handling facility was not tested for the presence of combustible gases, vapors, and toxic agents prior to employee entry:

The employer failed to protect employees from atmosphere hazards associated with test the air quality inside the grain bins prior to employees entering. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins to inspect the grain and perform maintenance on the bins and augers without testing the air quality with an approved and calibrated testing device.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/16/2011
Proposed Penalty:	\$ 28000.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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**Citation 2 Item 3** Type of Violation: **Willful**

29 CFR 1910.272(g)(2):

When entering the grain handling facility bins, silos, or tanks from the top, employees did not wear a body harness with lifeline, or use a boatswain's chair that met the requirements of Subpart D, 29 CFR 1910.28(j):

The employer failed to protect employees from potential engulfment hazards associated with failing to mandate employees to wear proper rescue equipment prior to entering grain bins. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees entering grain bins to inspect the grain and perform maintenance on the bins and augers without wearing the proper rescue equipment. Examples of proper rescue equipment include but are not limited to:

- i. Fall arrest harness with lanyard and rope.
- ii. Wristlets with lanyard and rope.

Abatement certification and abatement documentation is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/16/2011
Proposed Penalty:	\$ 28000.00



**Citation and Notification of Penalty**

**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713

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

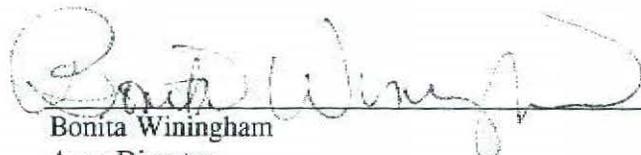
29 CFR 1910.272(m)(3):

A certification record was not maintained of each maintenance inspection conducted by the employer of the grain facility:

The employer failed to maintain a record of maintenance inspections as required by this subpart. This was most recently evident during the inspection of the facility located at 87784 474th Ave, Atkinson, NE 68713, where the employer has employees performing maintenance throughout the facility without keeping any written certification as a record of the repairs.

Abatement certification is required for this violation. The abatement certification sheet is enclosed with the citations.

Date By Which Violation Must be Abated:	12/30/2011
Proposed Penalty:	\$ 0.00

  
Bonita Winingham  
Area Director

**U.S. Department of Labor**

Occupational Safety and Health Administration  
444 Regency Parkway Dr.  
Lake Regency Office Bldg, Ste. 303  
Omaha, NE 68114  
Phone: (402)553-0171 FAX: (402)551-1288



**INVOICE/  
DEBT COLLECTION NOTICE**

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**Company Name:** C.O. Grain, Inc.  
**Inspection Site:** 87784 474th, Atkinson, NE 68713  
**Issuance Date:** 11/28/2011

**Summary of Penalties for Inspection Number 314060989**

<b>Citation 1, Serious</b>	= \$	<b>48000.00</b>
<b>Citation 2, Willful</b>	= \$	<b>84000.00</b>
<b>Citation 3, Other</b>	= \$	<b>0.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	= \$	<b>132000.00</b>

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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.

OSHA does not agree to any restrictions or conditions put on any check or money order 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.

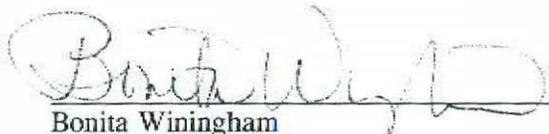
**Interest.** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 5%. Interest 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

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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.

  
\_\_\_\_\_  
Bonita Winingham  
Area Director

11/25/11  
\_\_\_\_\_  
Date

THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 affords workers the right to a safe workplace. OSHA requires employers to provide a workplace that is free of serious recognized hazards and in compliance with OSHA standards. Workers have the right to FILE A COMPLAINT WITH OSHA if they believe that there are either violations of OSHA standards or serious workplace hazards. Contact the OSHA Area office nearest you or contact our toll free number: 1-800-321-OSHA (6742)... TTY 1-877-889-5627. To file a complaint online or obtain information on your rights in the workplace, visit OSHA's website at [www.osha.gov](http://www.osha.gov).

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TEMPLATE #1

**OSHA Significant Enforcement Action Notification  
Region VII – Omaha, Nebraska Area Office**

**Company:** C.O. Grain, Inc.  
Omaha, Nebraska  
Inspection #314060989

**Penalty:** \$132,000

**Six-month statute of limitations:** December 3, 2011

**Inspection:** This inspection was initiated on June 8, 2011, as a comprehensive programmed inspection under the Omaha Area Office Local Emphasis Program, *OSHA Instruction CPL 2-07-21C, Grain Handling Industry*. This Local Emphasis Program targets grain handling facilities in the state of Nebraska; this facility only stores grain for purposes of sale and distribution across the country. This inspection revealed employees are entering grain bins and walking on grain with augers in operation, a rope tied to their belt loop (on occasion), without atmospheric testing being conducted, no rescue equipment present or provided, and sometimes both employees are entering simultaneously while alone at the facility, without an observer being present or anyone else at the site to hear yells for help. The CSHO documented this employer had received the February 2011 Dr. Michaels memorandum to grain handling employers, which discussed hazards, and protections from hazards, in the grain handling industry.

**Violations:** Inspection #314060989  
12 Serious - \$48,000 – ladders, respirators, power transmission,  
grain handling, hazard communication  
3 Willful - \$84,000 – grain handling  
1 Other-than-Serious - \$0

**Number of Employees:** 5

**Union(s):** No

**Severe Violator Enforcement Program:** Yes

**Congressional parties:** Senator Mike Johanns (R)  
Senator Ben Nelson (D)  
Congressman Adrian Smith (R-3<sup>rd</sup>)

**Media Interest Anticipated?:** Media interest is anticipated, due to the headlines occurring in the grain handling community recently; specifically following the Atchison, KS grain elevator explosion.

INFORMATION

Violation Summary  
C.O. Grain Inc.  
Inspection #314060989

ITEM	STANDARD	DESCRIPTION	GBP/ADJ FACTORS	PENALTY
<b>SERIOUS</b>				
1-1a	1910.27(d)(1)(ii)	Missing cages on fixed ladders over 20' tall	\$7,000/ 40% Size	\$4,200
1-1b	1910.27(d)(2)	Absent landing platforms for ladders extending over 20'.	Grouped	Grouped
1-2a	1910.134(c)(1)	Failure to develop and implement a written respiratory program.	\$7,000/ 40% Size	\$4,200
1-2b	1910.134(e)(1)	Failure to have employees medically evaluated.	Grouped	Grouped
1-2c	1910.134(f)(2)	Lack of fit test prior to respirator use.	Grouped	Grouped
1-3a	1910.219(d)(1)	Unguarded pulleys.	\$7,000/ 40% Size	\$4,200
1-3b	1910.219(e)(1)(i)	Unguarded belts.	Grouped	Grouped
1-4	1910.272(d)	Lack of an Emergency Action Plan.	\$7,000/ 40% Size	\$4,200
1-5	1910.272(e)(1)(ii)	Inadequate Lockout and Tag Out instruction.	\$7,000/ 40% Size	\$4,200
1-6	1910.272(e)(2)	No training on bin entry.	\$7,000/ 40% Size	\$4,200
1-7	1910.272(g)(1)(i)	Lack of bin entry permits.	\$7,000/ 40% Size	\$4,200
1-8	1910.272(g)(4)	Lack of employee rescue equipment.	\$7,000/ 40% Size	\$4,200
1-9	1910.272(g)(5)	Lack of training for observer(s).	\$7,000/ 40% Size	\$4,200
1-10	1910.272(j)(1)	Lack of a housekeeping plan.	\$5,000/ 40% Size	\$3,000
1-11	1910.272(m)(4)	Lack of a LOTO program with procedures.	\$7,000/ 40% Size	\$4,200
1-12a	1910.1200(e)(1)	Lack of a HAZCOM program.	\$5,000/ 40% Size	\$3,000
1-12b	1910.1200(g)(8)	Failure to provide Material Safety Data Sheets.	Grouped	Grouped

INFORMATION

1-12c	1910.1200(h)(i)	Failure to provide HAZCOM training.	Grouped	Grouped
<b>WILLFUL</b>				
2-1	1910.272(g)(1)(ii)	Failure to lockout mechanical equipment during bin entry.	\$70,000/ 60% Size	\$28,000
2-1	1910.272(g)(1)(iii)	Failure to test air quality prior to bin entry.	\$70,000/ 60% Size	\$28,000
2-3	1910.272(g)(2)	Lack of rescue equipment for employees making bin entries.	\$70,000/ 60% Size	\$28,000
<b>OTHER THAN SERIOUS</b>				
3-1	1910.272(m)(3)	Failure to maintain certification records on maintenance inspections.	\$0	\$0
<b>TOTAL SERIOUS VIOLATIONS (12):</b>				<b>\$48,000</b>
<b>TOTAL WILLFUL VIOLATIONS (3):</b>				<b>\$84,000</b>
<b>OTHER THAN SERIOUS (1):</b>				<b>\$0</b>
<b>TOTAL PENALTIES FOR INSPECTION #314060989</b>				<b>\$132,000</b>