

Virginia Department of Labor and Industry
Virginia Occupational Safety and Health (VOSH) Compliance

Brammer Village
3013 Peters Creek Road
Roanoke, VA 24019
Phone: (540) 562-3580 Fax: (540) 562-3587



Citation and Notification of Penalty

To:
Nestle USA
and its successors
201 Airside Drive
Danville, VA 24540

Inspection Number: 1298890
Inspection Date(s): 02/15/2018-05/02/2018
Issuance Date: 06/08/2018

Inspection Site:
201 Airside Drive
Danville, VA 24540

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.

Citation and Notification of Penalty. Described herein are alleged violations of Virginia's Occupational Safety and Health (VOSH) laws, standards and/or regulations. Any penalty proposed is based on the corresponding violation. In accordance with Virginia Code §40.1-49.4(b)(4), you must abate all alleged violations by the dates listed and pay the penalties proposed, unless, within 15 working days (excluding weekends and State and Federal holidays) from the date you receive this citation, you submit a written notice of contest to the Virginia Department of Labor and Industry Regional Office at the address listed above. Issuance of this citation does not constitute a finding by the Commissioner that you have violated the law, standard or regulation described unless you fail to file a written notice of contest or this citation is affirmed by a court of law.

Please read the enclosed booklet entitled *Employer Responsibilities and Courses of Action Following a VOSH Inspection* in conjunction with this citation to learn your rights and responsibilities.

Posting. Virginia law requires you to immediately post a copy of this Citation in a prominent place at or near the location of the violation(s), or if it is not practicable because of the nature of your operations to do so, in a place where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) have been abated, or for 3 working days (excluding weekends, State and Federal holidays), whichever is longer. **The penalty amounts may be marked out or covered up prior to posting. Please note that these penalty amounts are releasable by the Department in response to a Freedom of Information Act (FOIA) request.**

Informal Conference. You have the right to an informal conference with the appropriate VOSH Regional Safety Director at which you may present evidence to support amending the citation, order of abatement or penalties proposed. An informal conference, which is normally held during the 15 working day contest period, is optional. If you wish to attend an informal conference, you must contact the appropriate VOSH Regional Safety Director at the Regional Office listed above.

If you request an informal conference, you must notify your employees of the time and place. Be sure to bring to the conference any documentation of existing conditions as well as abatement steps taken thus far. If conditions warrant, this matter may be resolved amicably without the need for litigation, by way of an Informal Settlement Agreement.

Requesting an informal conference does not extend the 15 working day contest period.

Right to Contest. You have the right to contest this Citation. 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. This citation and the penalties proposed will become a final order of the Commissioner of Labor and Industry unless you notify VOSH in writing within 15 working days of receiving this citation that you contest the citation or any part thereof.

Penalty Payment. Penalties are due within 15 working days of receipt of this notification unless you contest. Make your check or money order payable to "Commonwealth of Virginia ". **Please indicate the Inspection Number on the check or money order.**

The Virginia Department of Labor and Industry 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 violations which you do not contest, you must promptly notify the appropriate VOSH Regional Safety Director at the Regional Office listed above, by completing the enclosed Report on Correction of Violations form, and indicates that you have taken appropriate corrective action by the date(s) specified in this citation. The form must include abatement steps you have taken and the dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

Employment Discrimination Unlawful. Virginia Code §§40.1-51.2:1 and -51.2:2 prohibit discrimination against any employee who has filed a complaint or who has exercised any rights under the safety and health provisions of Title 40.1 of the Code of Virginia. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the VOSH Office of Whistleblower Protection at Suite 207, 600 East Main Street, Richmond, Virginia 23219.

Notice to Employees. The law gives an employee or his/her representative the opportunity to contest in writing any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Regional Office at the address shown above and postmarked within 15 working days (excluding weekends and State and Federal holidays) of the employer's receipt of this Citation.

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NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the Citation(s) issued 06/08/2018. The conference will be held at the VOSH office located at Brammer Village, 3013 Peters Creek Road, Roanoke, VA 24019 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Virginia Department of Labor and Industry
Virginia Occupational Safety and Health (VOSH) Compliance
Brammer Village
3013 Peters Creek Road
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Inspection Number: 1298890
Inspection Date: 02/15/2018-
05/02/2018
Issuance Date: 06/08/2018



Citation and Notification of Penalty

Company Name: Nestle USA
Inspection Site: 201 Airside Drive, Danville, VA 24540

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

1910.147(c)(4)(ii)(B): Energy control procedure. The procedures shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance including, but not limited to, the following: Specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy.

Authorized employees conducting Lockout / Tagout operations on the Process Line 5 Metal Detector, the Line 7 Palletizer, and the Line 7 Spirals were not provided copies of the respective Lockout / Tagout procedures prior to beginning work and exposed to serious injury from the unexpected energization of the equipment.

Date by Which Violation Must Be Abated:

June 14, 2018

Proposed Penalty:

\$12470.00

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

1910.147(c)(5)(i): Locks, tags, chains, wedges, key blocks, adapter pins, self-locking fasteners, or other hardware was not provided by the employer for isolating, securing or blocking of machines or equipment from energy sources:

Employees authorized in Lockout / Tagout procedure operations for the Line 7 Buitoni Capper were not provided devices or hardware required to complete the Lockout / Tagout procedures.

Date by Which Violation Must Be Abated:

June 14, 2018

Proposed Penalty:

\$12470.00

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

1910.147(c)(6)(i): The employer did not conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the requirements of this standard are being followed:

No periodic inspection was conducted to include a review, between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure being inspected.

Date by Which Violation Must Be Abated:

June 14, 2018

Proposed Penalty:

\$12470.00

Virginia Department of Labor and Industry
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Brammer Village
3013 Peters Creek Road
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Citation and Notification of Penalty

Company Name: Nestle USA
Inspection Site: 201 Airside Drive, Danville, VA 24540

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

1910.147(d): Application of control. The established procedures for the application of energy control (the lockout or tagout procedures) shall cover the following elements and actions and shall be done in the following sequence:

- *Preparation for shutdown. Before an authorized or affected employee turned off a machine or equipment, the authorized employee did not have knowledge of the type and magnitude of the energy, the hazards of the energy to be controlled, and the method or means to control the energy.
- *Machine or equipment shutdown. The machine or equipment was not turned off or shut down using the procedures established for the machine or equipment. An orderly shutdown was not utilized to avoid any additional or increased hazard(s) to employees as a result of the equipment stoppage.
- *Machine or equipment isolation. All energy isolating devices that are needed to control the energy to the machine or equipment was not physically located and operated in such a manner as to isolate the machine or equipment from the energy source(s).
- *Lockout / Tagout device application. LOTO devices were not affixed to hold the device in the "off" position and tags were not added to identify all persons who were required to use such devices.
- *Stored energy. All potentially hazardous energy was not relieved or otherwise rendered safe.
- *Verification of isolation. Where LOTO not utilized, it could not otherwise be verified.

The employer failed to ensure that all steps outlined in 1910.147(d) and required for the control of hazardous energy sources such as, but not limited to, electrical and pneumatic were followed before employees conducted activities such as removing jams / rejects from the Process Metal Detectors or accessing the Palletizers and Spirals.

On January 26, 2018, an employee's arm was caught in the Process Line 5 Metal Detector machine when removing a jam as it returned to its home position.

Date by Which Violation Must Be Abated: **June 14, 2018**
Proposed Penalty: **\$12470.00**

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

1910.212(a)(1): One or more methods of machine guarding was not provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks:

On or about January 26, 2018, and at times prior thereto, the employer did not provide machine guards to the Process Line 5 Metal Detector, exposing employees to the hazards of being caught in rotating parts. An employee's arm was caught in the machine when attempting to clear material from around the conveyor when it returned to its home position.

Date by Which Violation Must Be Abated: **June 14, 2018**
Proposed Penalty: **\$12470.00**

Virginia Department of Labor and Industry
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Brammer Village
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Citation and Notification of Penalty

Company Name: Nestle USA
Inspection Site: 201 Airside Drive, Danville, VA 24540

Citation 2 Item 1

Type of Violation: **Repeat-Serious**

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:

The employer did not ensure employees used energy control procedures to control hazardous energy of the Process Line 5 Metal Detector per lockout procedure # LP1829. The lack of an energy control procedure use resulted in a January 26, 2018 injury where an employee's arm was caught in the machine when it returned to its home position.

Nestle USA was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1910.147(c)(1), which was contained in VOSH inspection # 110913, Citation number 1, Item number 1(a), and was affirmed as a final order on March 17, 2016 with respect to a workplace located at 201 Airside Drive, Danville, VA 24540.

Date by Which Violation Must Be Abated:

June 14, 2018

Proposed Penalty:

\$62355.00

Citation 2 Item 2

Type of Violation: **Repeat-Serious**

1910.147(c)(7): At this establishment, the employer had not provided training to ensure that the purpose and functions of the energy control program were understood by employees and that the knowledge and skills required for the safe application, usage, and removal of the energy controls were acquired by employees:

The employer did not ensure employees were trained to control hazardous energy of the Process Line 5 Metal Detector per lockout procedure # LP1829. The lack of training resulted in a January 26, 2018 injury where an employee's arm was caught in the machine when it returned to its home position.

Nestle USA was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1910.147(c)(7), which was contained in VOSH inspection # 110913, Citation number 1, Item number 1(b), and was affirmed as a final order or March 17, 2016 with respect to a workplace located at 201 Airside Drive, Danville, VA 24540.

Date by Which Violation Must Be Abated:

June 14, 2018

Proposed Penalty:

\$62355.00

Lee A. Willis
VOSH Regional Safety Director

Virginia Department of Labor and Industry
Virginia Occupational Safety and Health (VOSH) Enforcement
Brammer Village
3013 Peters Creek Road
Roanoke, VA 24019
Phone: (540) 562-3580 FAX: (540) 562-3587



INVOICE/DEBT COLLECTION NOTICE

Company Name: Nestle USA
Inspection Site: 201 Airside Drive, Danville, VA 24540
Issuance Date: 06/08/2018
Inspection Number: 1298890

Summary of Proposed Penalties:

Citation 1 Item 1, Serious	12470.00
Citation 1 Item 2, Serious	12470.00
Citation 1 Item 3, Serious	12470.00
Citation 1 Item 4, Serious	12470.00
Citation 1 Item 5, Serious	12470.00
Citation 2 Item 1, Repeat-Serious	62355.00
Citation 2 Item 2, Repeat-Serious	62355.00
TOTAL PROPOSED PENALTIES:	187060.00

Pursuant to Virginia Code §40.1-49.4.A.4.(a), the Commissioner of the Department of Labor and Industry may assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, regulations, and standards. Interest charges are assessed at an annual rate in accordance with Virginia Code §2.2-4805.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with VOSH. **Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.**

A debt is past-due 30 calendar days after the final order date unless the employer makes a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it is deemed delinquent and referred to the Office of the Attorney General or other collection agency for collection. Administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please send payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219. You may use the enclosed self-addressed envelope. **Please make your check or money order payable to: "Commonwealth of Virginia". Please indicate the Inspection Number on the payment. *Do not send payment to the Regional Office.***

Lee A. Willis
VOSH Regional Safety Director

Date

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REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION

Company Name:

Nestle USA
201 Airside Drive
Danville, VA 24540

RETURN FORM TO:

Virginia Department of Labor and Industry
Brammer Village
3013 Peters Creek Road
Roanoke, VA 24019
Phone: (540) 562-3580 Fax: (540) 562-3587

Inspection Number: 1298890

Please provide the corrective action taken and date of completion by each numbered item as indicated on the attached form, along with adequate supporting documentation (e.g., copies of written programs (Safety, Lockout/Tagout, Hazard Communication, Respiratory Protection, Confined Spaces, etc.), drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results (such as air contaminants, noise monitoring, asbestos, lead, etc). For accuracy, please refer to the enclosed citations when completing this form.

Be sure to address all items on the citation, including any other-than-serious items. Failure to do so will delay documentation of your abatement efforts and may result in a follow-up inspection and could result in additional proposed penalties of \$1,000.00. Please be aware that Virginia Code §40.1-51.4:2 provides for a fine of not more than \$10,000.00, or imprisonment for not more than six (6) months, or both, for making false statements. Please type or print legibly.

Also, please be sure to sign and date this form.

Abatement Verification Statement:

Regarding the abatement actions on the following page(s), the undersigned certifies that:

1. All affected employees were promptly notified of all the hazards which were cited in this VOSH Citation.
2. For ALL items cited, a copy of the citation was posted at or near the location where each violation described in the citation occurred until each violation was abated or for a minimum of 3 working days (excluding weekends and State and Federal holidays), whichever is later; or
3. For all hand held or moveable equipment a warning tag or copy of the citation was attached to the equipment until the violation was abated, until the item was removed from service, or until such time as the item was no longer in the employer's control.
4. All items cited on the VOSH Citation were corrected and a copy of the Abatement Verification was made available for review to all affected employees by posting or other appropriate means on the date of the signing of this form.

NOTE: PLEASE MARK ABATEMENT VERIFICATION WITH MATCHING VIOLATIONS.

Employer Signature / Title

Date of Verification

Print Name and Title of Employee Representative



REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION

Citation #:			Item Number			Date Item Corrected	
1			1				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							
Citation #:			Item Number			Date Item Corrected	
1			2				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							
Citation #:			Item Number			Date Item Corrected	
1			3				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____ _____							

Citation #:			Item Number			Date Item Corrected	
1			4				

Corrective action taken:

List type of supporting documentation attached: _____

Citation #:			Item Number			Date Item Corrected	
1			5				

Corrective action taken:

List type of supporting documentation attached: _____

Citation #:			Item Number			Date Item Corrected	
2			1				

Corrective action taken:

List type of supporting documentation attached: _____

Citation #:			Item Number			Date Item Corrected	
2			2				

Corrective action taken:

List type of supporting documentation attached: _____

