

U.S. Department of Labor

Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, NY 13212
Phone: 315-451-0808 Fax: 315-451-1351



Citation and Notification of Penalty

To:

Marshall Ingredients, LLC
and its successors
Peter Reid, President
5740 Limekiln Road
Wolcott, NY 14590

Inspection Number: 1257270**Inspection Date(s):** 08/11/2017 - 01/17/2018**Issuance Date:** 01/17/2018**Inspection Site:**

5740 Limekiln Road
Wolcott, NY 14590

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 01/17/2018. The conference will be held by telephone or at the OSHA office located at 3300 Vickery Road, North Syracuse, NY 13212 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1257270

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590
Issuance Date: 01/17/2018

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, 3300 Vickery Road, North Syracuse, NY 13212**

Citation Number 1 and Item Number 1 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 2a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 2b was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 2c was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 3a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 3b 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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1257270

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590
Issuance Date: 01/17/2018

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, 3300 Vickery Road, North Syracuse, NY 13212**

Citation Number 1 and Item Number 4 was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 6a was corrected on _____
By (Method of Abatement): _____

Citation Number 1 and Item Number 6b 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: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.95(c)(1): A continuing, effective hearing conservation program as described in 29 CFR 1910.95(c) through (n) was not instituted when employee noise exposures equaled or exceeded an 8 hour time-weighted average sound level (TWA) of 85 dBA:

- a) **Production Area, on or about 8/15/17: An employee working as a Prater Operator was exposed to continuous noise at a level of 141.3% of the dose of the OSHA permissible exposure limit. The equivalent dBA for the 141.3% dose is approximately 92.5 dBA calculated as the 8 hour time weighted sound pressure level. The sampling was conducted on 8/15/17 for 423 minutes. Exposure calculations include a zero increment for the 57 minutes not sampled. Employee was wearing ear plugs.**
- b) **Production Area, on or about 8/15/17: An employee working as a Dryer Operator was exposed to continuous noise at a level of 78.4% of the dose of the OSHA permissible exposure limit. The equivalent dBA for the 78.4% dose is approximately 88.2 dBA calculated as the 8 hour time weighted sound pressure level. The sampling was conducted on 8/15/17 for 418 minutes. Exposure calculations include a zero increment for the 62 minutes not sampled. Employee was wearing ear plugs.**
- c) **Production Area, on or about 8/15/17: An employee working as a General Laborer was exposed to continuous noise at a level of 84.2% of the dose of the OSHA permissible exposure limit. The equivalent dBA for the 84.2% dose is approximately 88.8 dBA calculated as the 8 hour time weighted sound pressure level. The sampling was conducted on 8/15/17 for 418 minutes. Exposure calculations include a zero increment for the 62 minutes not sampled. Employee was wearing ear plugs.**
- d) **Production Area, on or about 8/15/17: An employee working as a General Laborer was exposed to continuous noise at a level of 84.9% of the dose of the OSHA permissible exposure limit. The equivalent dBA for the 84.9% dose is approximately 88.8 dBA calculated as the 8 hour time weighted sound pressure level. The sampling was conducted on 8/15/17 for 415 minutes. Exposure calculations include a zero increment for the 65 minutes not sampled. Employee was wearing ear plugs.**

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: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

e) **Production Area, on or about 8/15/17:** An employee working as a Shift Supervisor was exposed to continuous noise at a level of 68.2% of the dose of the OSHA permissible exposure limit. The equivalent dBA for the 68.2% dose is approximately 87.2 dBA calculated as the 8 hour time weighted sound pressure level. The sampling was conducted on 8/15/17 for 415 minutes. Exposure calculations include a zero increment for the 65 minutes not sampled. Employee was wearing ear plugs.

Abatement methodology:

An effective hearing conservation program in accordance with 29 CFR 1910.95(c) through (n) shall be maintained. An effective hearing conservation program shall include, at a minimum:

- (1) a baseline audiogram for all employees exposed to noise levels equal to or in excess of the standard.
- (2) Annual audiograms for each overexposed employee
- (3) Analysis of audiogram results with retesting and/or referral to an otolaryngologist or qualified physician when a significant threshold shift occurs. A significant shift will be considered to be equal to or greater than an average of 30 dba over the 2000, 3000, and 4000 hertz frequencies.
- (4) Where insert ear plugs or custom-molded devices are utilized, individual employee fitting shall be conducted by a trained person, and employees shall be instructed in the care and use of the devices.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

01/29/2018
\$7760.00



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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 2 a Type of Violation: **Serious**

29 CFR 1910.134(c)(1) Employer did not establish nor implement a written respiratory protection program with worksite specific procedures when respirators were necessary to protect the health of the employee or whenever respirators were required by the employer:

a) Production Area, on or about 9/12/17: Employer did not establish nor implemented a written respirator protection program when employees are required to wear N95 Particulate Filtering Face piece for protection against total dust while hand bagging ground fruits and vegetables. Employee exposures as referenced in Citation 1 Item 3a.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

02/16/2018
\$7760.00

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

Inspection Number: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.134(f)(2): Employer did not ensure that an employee using a tight fitting face piece respirator was fit tested prior to initial use of the respirator, whenever a different respirator face piece (size, style, model or make) was used, and at least annually thereafter:

a) Production Area, on or about 9/12/17: Employees required to wear N95 Particulate Filtering Face Piece for protection against total dust while hand bagging ground fruits and vegetables and had not been fit tested.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:

02/16/2018

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.134(k)(1): The employer did not provide effective, comprehensive, understandable, and annual (or more often if necessary) training to employees who are required to use respirators:

a) Production Area, on or about 9/12/17: Employees required to wear N95 Particulate Filtering Face Piece for protection against total dust while hand bagging ground fruits and vegetables and had not received respirator training.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:

02/16/2018

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: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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 3 a Type of Violation: **Serious**

29 CFR 1910.1000(c): Employees were exposed to materials in excess of the eight hour permissible exposure limit, listed in Table Z-3 of subpart Z of 29 CFR part 1910:

- a) **Production Area, on or about 9/12/17: Employee hand bagging ground apple and was exposed to 64.17 milligrams per cubic meter (mg/m3) of total dust, eight hour time weighted average (TWA), approximately 4.28 times the OSHA permissible exposure limit of 15.0 mg/m3. The sampling period was for 443 minutes. A zero increment is included for the 37 minutes not sampled. Employee was wearing a N95 dust mask.**
- b) **Production Area, on or about 9/12/17: Employee hand bagging ground apple and was exposed to 50.55 milligrams per cubic meter (mg/m3) of total dust, eight hour time weighted average (TWA), approximately 3.37 times the OSHA permissible exposure limit of 15.0 mg/m3. The sampling period was for 449 minutes. A zero increment is included for the 31 minutes not sampled. Employee was wearing a N95 dust mask.**

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

02/16/2018
\$7760.00



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.1000(e): Feasible administrative or engineering controls were not determined and implemented to achieve compliance with the limits prescribed in 29 CFR 1910.1000(a) through (d):

a) Production Area, on or about 9/12/17: Feasible administrative or engineering controls were not implemented to reduce employee exposure to total dust while hand bagging ground fruits and vegetables to below the OSHA Permissible Exposure Limit. Employee exposures as referenced in Citation 1 Item 3a.

EFFECTIVE MEANS OF ABATEMENT INCLUDE BUT ARE NOT LIMITED TO:

- 1. Eliminate hand bagging operations**
- 2. Provide local exhaust ventilation at point of operation for hand bagging operations**
- 3. Re-examine the dust collection system**
- 4. Train employees on methods to avoid unnecessary exposure**
- 5. Conduct air monitoring after any changes have been made to determine if improvements have been made.**

ABATEMENT WILL BE MULTI-STEP AS FOLLOWS:

Step 1: Effective respiratory protection which complies with 29 CFR 1910.134 shall be provided and used by exposed employee(s) as an interim protective measure until feasible engineering and/or administrative controls can be implemented, or whenever such controls fail to reduce employee exposure to within permissible exposure limits. (10 Days)

Step 2: Submit to the Area Director a written, detailed plan of abatement outlining a schedule for the implementation of engineering and/or administrative measures to control employee exposure to hazardous substances as referenced in this citation. This plan shall include, at a minimum, target dates

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: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

for the following actions which must be consistent with the abatement dates required by this citation:
(30 days)

- (1) Evaluation of engineering/administrative control options
- (2) Evaluation to be conducted by a qualified person such as a certified industrial hygienist and/or licensed mechanical professional engineer.
- (3) Selection of optimum control methods and completion of design
- (4) Procurement, installation and operation of selected control measures
- (5) Testing and acceptance or modification/redesign of control measures

Step 3: Abatement shall have been completed by the implementation of feasible engineering and/or administrative controls upon verification of their effectiveness in achieving compliance. (180 Days)

Abatement certification must be submitted for this item.

PPE01/29/2018
Plan02/16/2018
Engineering Controls07/16/2018

Date By Which Violation Must be Abated:

07/16/2018

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.146(c)(2): The employer did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces:

a) Production Area, on or about, on or about 8/2/17: No sign or any other equally effective means was placed at the access points on Dryer No. 1 designating the space as a permit required confined space to prevent unauthorized access to the space.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

01/22/2018
\$6467.00

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.146(d)(5)(i): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations were conducted by testing conditions in the permit space to determine if acceptable entry conditions existed before entry was authorized to begin:

a) Marshall Ingredients, LLC, on or about 7/18/17 and 7/24/17: Employees entered permit required confined spaces: Dryer No. 1 without testing the conditions in the permit space to determine if acceptable entry conditions existed before entry was authorized to begin.

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

01/22/2018
\$9054.00

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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 6 a 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) Marshall Ingredients, LLC, on or about 7/18/17: The employer allowed an employee to enter a permit required confined space Dryer No. 1 without preparing an entry permit.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

01/22/2018
\$6467.00

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.146(k)(1)(i): An employer who designated rescue and emergency services, pursuant to paragraph (d)(9) of this section, did not evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified:

a) Marshall Ingredients, LLC, on or about 7/18/17 and 7/24/17: Employer's confined space program designates local Fire Departments and Wayne County Fire Control to respond to a confined space emergency. Employer did not evaluate the Fire Department's ability to respond to a rescue summons in a timely manner.

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated:

01/22/2018

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: 1257270
Inspection Date(s): 08/11/2017 - 01/17/2018
Issuance Date: 01/17/2018



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.146(k)(3): Whenever an authorized entrant entered a permit space, retrieval systems or methods were not used to facilitated non-entry rescue:

a) Marshall Ingredients, LLC, on or about 7/18/17 and 7/24/17: Employees entered permit required confined spaces including but not limited to: Dryer No. 1 and were not utilizing a retrieval system, including a harness, an attached retrieval line and winch.

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated:

01/22/2018

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: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

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

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

a) Marshall Ingredients, LLC, on or about 7/18/17 and 7/24/17: The employer's written confined space program was not implemented in that employees enter permit required confined spaces without following the elements being implemented: permits are not being completed; safety harness are not worn; atmospheric testing is not being conducted; hazardous energy is not being controlled prior to entry; training not provided to employees and rescue services are not notified prior to entry.

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated:
Proposed Penalty:

02/01/2018
\$90535.00



Citation and Notification of Penalty

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590

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

29 CFR 1910.146(g)(1): The employer did not provide 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:

a) Marshall Ingredients, LLC, on or about 7/18/17 and 7/24/17: Entrants and attendants during entry into permit required confined spaces Dryer No. 1 were not trained on the understanding, knowledge and skills required to perform safe entries.

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated:

01/22/2018

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

Christopher Adams, CIH CSP
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, NY 13212
Phone: 315-451-0808 Fax: 315-451-1351



INVOICE / DEBT COLLECTION NOTICE

Company Name: Marshall Ingredients, LLC
Inspection Site: 5740 Limekiln Road, Wolcott, NY 14590
Issuance Date: 01/17/2018

Summary of Penalties for Inspection Number	1257270
Citation 1, Serious	\$54322.00
Citation 2, Willful	\$90535.00
TOTAL PROPOSED PENALTIES	\$144857.00

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.

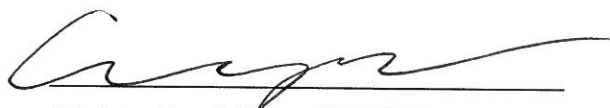
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within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

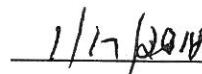
Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per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



Christopher Adams, CIH CSP

Area Director



Date