

U.S. Department of Labor

Occupational Safety and Health Administration
1100 East Campbell Road, Suite 250
Richardson, TX 75081
Phone: 972-952-1330 Fax: 972-952-1338



Citation and Notification of Penalty

To:

Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
and its successors
1019 Shelbyville Street
Center, TX 75935

Inspection Number: 1136372**Inspection Date(s):** 03/28/2016 - 09/26/2016**Issuance Date:** 09/26/2016**Inspection Site:**

1019 Shelbyville Street
Shelbyville, TX 75973

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 09/26/2016. The conference will be held by telephone or at the OSHA office located at 1100 East Campbell Road, Suite 250, Richardson, TX 75081 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1136372

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973
Issuance Date: 09/26/2016

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1100 East Campbell Road, Suite 250, Richardson, TX 75081**

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

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

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

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

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

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

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

Signature

Date

Typed or Printed Name

Title

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

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

**Citation and Notification of Penalty****Company Name:** Tyson Foods, Inc./Tyson Foods, dba Tyson Foods**Inspection Site:** 1019 Shelbyville Street, Shelbyville, TX 75973

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

Citation 1 Item 1 a Type of Violation: Serious

29 CFR 1910.36(b)(1): Two exit routes. At least two exit routes must be available in a workplace to permit prompt evacuation of employees and other building occupants during an emergency, except as allowed in paragraph (b)(3) of this section. The exit routes must be located as far away as practical from each other so that if one exit route is blocked by fire or smoke, employees can evacuate using the second exit route:

(a) On or about March 28, 2016, and at times before, the employer exposed employees to ammonia inhalation, fire, and explosion hazards when it did not have at least two exit routes for employees evacuation in engine room #2.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure two exit routes are available for employees egress. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

03/27/2017

Proposed Penalty:

\$12471.00

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



Citation and Notification of Penalty

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

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 1910.37(b)(2): Each exit must be clearly visible and marked by a sign reading "Exit."

On or about March 28, 2016, and at times before, the employer exposed employees to inhalation and fire hazards when it did not have doors marked with an exit sign.

- (a) The new install door in engine room #2 does not have an exit sign posted for employees egress.
- (b) The door that leads to the production area, in the hallway, near engine room #2 does not have an exit sign on the door to let employees know where to egress.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure doors are marked with an exit sign. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/14/2016
Proposed Penalty:	\$12471.00

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



Citation and Notification of Penalty

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

Citation 1 Item 2 b Type of Violation: Serious

29 CFR 1910.37(b)(4): If the direction of travel to the exit or exit discharge is not immediately apparent, signs must be posted along the exit access indicating the direction of travel to the nearest exit and exit discharge. Additionally, the line-of-sight to an exit sign must clearly be visible at all times:

(a) On or about March 28, 2016, and times before, operators/maintenance working in in engine room #2 where signs were not posted indicating the direction of travel to the nearest exit and exit discharge.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure employees exit access indicating the direction of travel to the nearest exit and exit discharge. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

10/14/2016

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: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

Citation 1 Item 2 c Type of Violation: Serious

29 CFR 1910.37(b)(6): Each exit sign must be illuminated to a surface value of at least five foot-candles (54 lux) by a reliable light source and be distinctive in color. Self-luminous or electroluminescent signs that have a minimum luminance surface value of at least .06 footlamberts (0.21 cd/m²) are permitted:

On or about March 28, 2016, and times before, operators/maintenance working in Process Safety Management where doors exit signs were not illuminated.

(a) At least two (2) employees per shift egress through the two doors of engine room #1.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure exit sign are illuminated. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

10/14/2016

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:** Tyson Foods, Inc./Tyson Foods, dba Tyson Foods**Inspection Site:** 1019 Shelbyville Street, Shelbyville, TX 75973**Citation 1 Item 3 Type of Violation: **Serious****

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

- (a) On or about March 28, 2016, the employer did not prohibit unauthorized access to engine room #1 in accordance with requirements, such as, but not limited to, ANSI/ASHRAE 15-1992, Safety Code for Mechanical Refrigeration standard, paragraph 11.13.6; exposing employees to fire and ammonia inhalation hazards.
- (b) On or about March 28, 2016, the door entering engine room #1 was not self-closing in accordance with requirements, such as, but not limited to IIAR Bulletin No. 110, 3/93, Revised 3/02, 2/04, and 6/07, Guidelines for: Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems, Appendix D-Machinery Rooms and Auxiliary Safety equipment, paragraph D.2 Access, Exit and Containment; thereby exposing employees to fire and ammonia inhalation hazards.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure that documentation of equipment complies with recognized and generally accepted good engineering practices.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**Date By Which Violation Must be Abated:**

10/14/2016

Proposed Penalty:

\$12471.00

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



Citation and Notification of Penalty

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

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

29 CFR 1910.119(f)(3): The operating procedures were not reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer did not certify annually that these operating procedures are current and accurate:

(a) The employer did not ensure that the following operating procedures were certified:

SOP RECIRC-LTR Operation of Recirculator & Ammonia Pumps SOP-AP-1 Operation of Purger and Control Bank SOP-IM-1 Operation of Heat Exchanger-Control Bank & Surge Drum SOP-WC-1 Operation of Heat Exchanger-Control Bank & Surge Drum

Pursuant to 29 CFR 1903.19 (d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure that operating procedures are reviewed to reflect current operating practice . The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/14/2016
Proposed Penalty:	\$12471.00

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



Citation and Notification of Penalty

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

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

29 CFR 1910.119(j)(4)(iii): The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience:

(a) On or about March 28, 2016, and at times before, the employer did not ensure that inspection and tests of the ammonia detection in the engine room was consistent with applicable manufacturers recommendations and good engineering practices.

Calibration of the ammonia detectors was not performed every six months in accordance with the manufacturers recommendations.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure that calibration has been performed. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/14/2016
Proposed Penalty:	\$12471.00

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



Citation and Notification of Penalty

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973

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

29 CFR 1910.119(j)(4)(iv): The employer did not document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test:

Calibration of the ammonia detectors was not performed every six months in accordance with the manufacturers recommendations.

Pursuant to 29 CFR 1903.19 (d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure that calibration has been performed. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/14/2016
Proposed Penalty:	\$12471.00

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

U.S. Department of Labor

Occupational Safety and Health Administration

Inspection Number: 1136372**Inspection Date(s):** 03/28/2016 - 09/26/2016**Issuance Date:** 09/26/2016**Citation and Notification of Penalty****Company Name:** Tyson Foods, Inc./Tyson Foods, dba Tyson Foods**Inspection Site:** 1019 Shelbyville Street, Shelbyville, TX 75973**Citation 1 Item 7 Type of Violation: **Serious****

29 CFR 1910.303(f)(2): Services, feeders, and branch circuits. Each service, feeder, and branch circuit, at its disconnecting means or overcurrent device, were not legibly marked to indicate its purpose, unless located and arranged so the purpose is evident:

(a) On or about March 28, 2016, and at times before, the employer exposed employees to fire hazards when it did not have the electrical panel box marked in engine room #2.

Pursuant to 29 CFR 1903.19(d), within 10 days, the employer must submit an abatement plan describing the actions it is taking to ensure that the electrical panel box is legibly marked to indicate its purpose. The violation must be abated no later than 10 days from the receipt of this citation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

10/14/2016

Proposed Penalty:

\$12471.00

A handwritten signature in blue ink, appearing to read "Timothy Minor".

TIMOTHY MINOR
Acting Area Director

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

U.S. Department of Labor
Occupational Safety and Health Administration
1100 East Campbell Road, Suite 250
Richardson, TX 75081
Phone: 972-952-1330 Fax: 972-952-1338



INVOICE / DEBT COLLECTION NOTICE

Company Name: Tyson Foods, Inc./Tyson Foods, dba Tyson Foods
Inspection Site: 1019 Shelbyville Street, Shelbyville, TX 75973
Issuance Date: 09/26/2016

Summary of Penalties for Inspection Number	1136372
Citation 1, Serious	\$87297.00
TOTAL PROPOSED PENALTIES	\$87297.00

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.



TIMOTHY MINOR

Acting Area Director



Date