

U.S. Department of Labor Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114



09/16/2024

Wholestone Farms Cooperative, Inc.
and its successors
900 South Platte Ave.
Fremont, NE 68025

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000), which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (402) 553-0171.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Thurlby", with a long horizontal flourish extending to the right.

Matthew Thurlby
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114



Citation and Notification of Penalty

To:
Wholestone Farms Cooperative, Inc.
and its successors
900 South Platte Ave.
Fremont, NE 68025

Inspection Number: 1735715
Inspection Date(s): 03/19/2024 - 04/02/2024
Issuance Date: 09/16/2024

Inspection Site:
900 South Platte Ave.
Fremont, NE 68025

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 by calling (402) 553-0171. 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 at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type “OSHA” in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. 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 09/16/2024. The conference will be held by telephone or at the OSHA office located at 444

Regency Parkway Drive, Suite 303, Omaha, NE 68114 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1735715

Company Name: Wholestone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025
Issuance Date: 09/16/2024

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, 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114.**

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: Wholstone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025

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

OSH ACT OSH Act of 1970 Section 5(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical harm to employees, in that employees were required to perform tasks resulting in ergonomic stressors that had caused, were causing, or were likely to cause musculoskeletal disorders (MSDs).

a) Palletizing: On or about March 19, 2024, and at times prior to, and continuing thereafter, the employer's employees were required to manually lift pork product boxes that weighed 14lbs to 99lbs, averaging 52lbs, from the palletizing fab conveyor onto pallets from the floor level up to 9 product tiers in height. The frequency and duration of lifts, weights of the products, repetitive motions, forceful exertions, and awkward postures exposed employees to the risk of low back injuries.

Among other methods, we recommend implementing a process-based approach to eliminate or materially reduce the hazard and propose the following feasible and acceptable methods of abatement:

- 1) Conduct a baseline ergonomic assessment, by a certified professional ergonomist, industrial engineer, or other qualified professional, of the Palletize Fab Line using validated methods. Based on the assessment, the ergonomist, industrial engineer, or other qualified professional shall provide a job hazard analysis and recommendations for reducing or eliminating ergonomic risk factors for employees performing palletizing work on this line.
- 2) Conduct periodic ergonomic surveys of employees who perform palletizing work on the Palletize Fab Line, as well as additional, future ergonomic risk assessments for this work at appropriate intervals or when changes to the work change the ergonomic risk.
- 3) Create an effective ergonomics program that includes the following elements: management leadership, employee engagement, training, hazard analysis and control, medical management, and process evaluation.
- 4) Provide training and education for employees who perform palletizing work on the Palletize Fab Line and managers who supervise this work. The training shall address ergonomic hazards and risk factors associated with such work, early recognition of musculoskeletal disorders, and ways to perform the work in an ergonomically safe manner, such as proper body positioning. For new hires, the training could also include work hardening (conditioning). Training should be done in a manner and a language understandable to all trainees. Retraining should be done annually or more frequently if operations change.

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: 1735715
Inspection Date(s): 03/19/2024 - 04/02/2024
Issuance Date: 09/16/2024



Citation and Notification of Penalty

Company Name: Wholystone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025

5) The following engineering, administrative, and work practice controls are feasible and will materially reduce the hazard:

- Ensure there is sufficient space around all pallets such that employees can move around the pallet and/or provide pallet turn tables that allow pallet rotation.
- Instruct workers to limit reaches by moving around the pallet to deposit loads instead of reaching across the pallet.
- Install rotating, height adjustable platforms, vacuum lift assists, or pallet dispensers.
- In conjunction with rotating platforms, minimize forward reaching by using a layer-by-layer loading technique where the pallet is rotated while the first tier is completely placed, followed by the second tier and so forth.
- Limit top tier heights so that the top level can be accessed without reaching above shoulder height (48").
- Reduce the duration of lifting tasks by providing longer rest breaks and/or establishing defined work rotation plans.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	October 21, 2024
Proposed Penalty:	\$16,131.00

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: Wholstone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees

Employees are exposed to struck-by, caught-in, or caught-between hazards as a result of employee(s) working near a damaged steel rack where powered industrial trucks operate in the blast freezer. Miscellaneous meat products were stored on the deep freezer such including boxes of bacon, sausage links, and sausage rolls. The metal storage rack were heavily damaged at multiple points, including on the footings of the rack. This was most recently documented on March 19, 2024 at the Wholstone Farms Inc. facility located at 900 South Platte Ave, Fremont, Nebraska.

AMONG OTHER METHODS, FEASIBLE AND ACCEPTABLE ABATEMENT METHODS TO CORRECT THIS HAZARD ARE:

- 1) Install impact protection at the ends of aisles to prevent racking uprights from being struck.
- 2) Train employees to recognize the dangers of using come along devices and to evaluate any hazards in regard to striking racking uprights.
- 3) Repair, replace, or remove the damaged storage racks.
- 4) Evaluate options for mechanical handling equipment which are smaller than currently used equipment to lessen to opportunity of collision with the racks.

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

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$9,218.00

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: 1735715
Inspection Date(s): 03/19/2024 - 04/02/2024
Issuance Date: 09/16/2024



Citation and Notification of Penalty

Company Name: Wholestone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025

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 1910.22(d)(1): The employer did not ensure that walking-working surfaces are inspected, regularly and as necessary, and maintained in a safe condition

Employee(s) are exposed to slip trip and fall hazards. This was most recently documented on or about March 19, 2024 at the Wholestone Farms Inc. facility located at 900 South Platte Ave, Fremont, Nebraska. A walking-working surface located in the cold storage area of the shipping department was uneven and damaged with indents and cracks.

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

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$11,524.00

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: 1735715
Inspection Date(s): 03/19/2024 - 04/02/2024
Issuance Date: 09/16/2024



Citation and Notification of Penalty

Company Name: Wholestone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025

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

29 CFR 1910.176(a): Aisle(s) and passageway(s) were not kept clear and in good repair with no obstruction across or in aisles that could create a hazard.

Employee(s) are exposed to slip trip and fall hazards. This was most recently documented on or about March 19, 2024 at the Wholestone Farms Inc. facility located at 900 South Platte Ave, Fremont, Nebraska. A walking-working surface located in the cold storage area of the shipping department was uneven and damaged with indents and cracks.

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

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00



Matthew Thurlby
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
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114



INVOICE / DEBT COLLECTION NOTICE

Company Name: Wholestone Farms Cooperative, Inc.
Inspection Site: 900 South Platte Ave., Fremont, NE 68025
Issuance Date: 09/16/2024

Summary of Penalties for Inspection Number: 1735715

Citation 1 Item 1, Serious	\$16,131.00
Citation 1 Item 2, Serious	\$9,218.00
Citation 1 Item 3a, Serious	\$11,524.00
Citation 1 Item 3b, Serious	\$0.00

TOTAL PROPOSED PENALTIES: **\$36,873.00**

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 at www.pay.gov. At the top of the pay.gov homepage, type "OSHA" in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. 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 two 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.



Matthew Thurlby

Area Director



Date