

SOL:DH
(14) 01062

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor,	:	
	:	
Complainant,	:	OSHRC Docket No. 14-1427
	:	
v.	:	OSHRC Docket No. 15-0264
	:	
HANNAFORD BROS. CO.,	:	
	:	
Respondent.	:	

SETTLEMENT AGREEMENT

I.

Scope and Intent of Settlement Agreement

The Secretary of Labor, United States Department of Labor, through the Occupational Safety and Health Administration (“Complainant” or “OSHA”), and Respondent, Hannaford Bros. Co. (“Respondent”), hereby stipulate and agree that:

(A) For OSHRC Docket No. 14-1427, on August 5, 2014, Respondent was cited for alleged violations of the Occupational Safety and Health Act of 1970, 29 USC § 651 et seq. (“the Act”), and was issued a Notification of Proposed Penalties in the total amount of \$7000.00. For OSHRC Docket No. 15-0264, on January 14, 2015, Respondent was cited for alleged violations of the Act, and was issued a Notification of Proposed Penalties in the total amount of \$27,900.00.

(B) Respondent, an employer within the meaning of section 3(5) of the Act, filed with Complainant notices of intent to contest the citations and proposed penalties. These notices were duly transmitted to the Occupational Safety and Health Review Commission (“Commission”) and jurisdiction over these proceedings is conferred upon the Commission by section 10(c) of the Act.

(C) Complainant and Respondent (“the Parties”) have agreed in this Settlement Agreement (“SA”) to resolve in full and as described below all matters in the cases identified by the above-referenced docket numbers. This SA covers both of Respondent’s distribution centers that were inspected in these matters: the Schodack Landing, New York distribution center (“Schodack Landing distribution center”) and the So. Portland, Maine distribution center (“So. Portland distribution center” - collectively “both distribution centers”).

II.

Resolution and Amendment of Citation Items

(A) OSHRC Docket No. 14-1427: the parties agree that Respondent will pay \$3500 in settlement of this citation, which will remain classified as serious.

(B) OSHRC Docket No. 15-0264: the parties agree that Respondent will pay \$3500 for Citation 1, Item 1, which will remain classified as serious, and will pay \$2750 for Citation 1, Item 5 which will remain classified as serious. Complainant agrees to vacate Citation 1, Items 2, 3, 4 and 6.

(C) Abatement for all affirmed items of the Citations, except for the Additional Abatement Measures specified below in Section III, is due within ten days from the date this SA is fully executed.¹

¹ “Fully executed” shall mean the date of the last signature on the SA.

(D) Respondent certifies that the specific violations alleged in the above-referenced cases and affirmed by this SA have been abated or will be abated by the abatement date described above. For each of those items in both of those cases, abatement verification and certification, as required by 29 CFR § 1903.19(c), shall be submitted to the issuing Area Director of the local Occupational Safety and Health Administration Area Office no later than twenty days from the date this SA is fully executed. Respondent also agrees to submit at the same time such abatement documentation as is required by 29 CFR § 1903.19(d). (Dates for compliance with the Additional Abatement Measures, and for the submission of other reports and documentation required by this SA, and to whom to send them, are set forth elsewhere in this SA.)

(E) The Citations and Notifications of Penalties are deemed amended to include the full terms of this SA.

III.

Ergonomic Assessment and Additional Abatement Measures

For both the Schodack Landing distribution center and the So. Portland distribution center, Respondent agrees as follows (for the convenience of the parties, Exhibit B to this SA summarizes in chart form the timing and corresponding calendar dates for the due dates described below):

(A) Ergonomic assessment and report by ergonomic consultant

(i) Respondent will engage an ergonomic consultant, qualified by appropriate education, training and experience (“the Ergonomic Consultant”), to conduct an ergonomic hazard assessment and prepare a written report with recommendations for both distribution centers. Respondent has engaged Dr. William S. Marras as the Ergonomic Consultant. In the event that Respondent, for any reason, intends to engage

someone other than Dr. Marras, Respondent will provide the credentials of the proposed Ergonomic Consultant for review by OSHA thirty calendar days or more prior to the Ergonomic Consultant beginning the ergonomic assessment. OSHA shall have fifteen calendar days thereafter to object to Respondent's selection based on the proposed Ergonomic Consultant's credentials. If OSHA objects, the agency shall indicate to Respondent the grounds for the objection, and Respondent will then continue to search until it locates a person with credentials satisfactory to OSHA. Within fifteen days of an objection by OSHA to Respondent's proposed Ergonomic Consultant, Respondent will provide to OSHA the credentials of an alternative proposed Ergonomic Consultant. The selected Ergonomic Consultant shall be retained by Respondent promptly following expiration of the fifteen-day period without objection. In the event that OSHA initially objects to the proposed Ergonomic Consultant, the timeline set forth below in the remainder of Part III of this SA will begin on the day immediately following the expiration of the final fifteen-day period without objection.

(ii) Within fifty days from the date this SA is fully executed, the Ergonomic Consultant will complete his ergonomic assessment and written report for one of the two distribution centers.

(iii) Within 100 days from the date this SA is fully executed, the Ergonomic Consultant will complete his ergonomic assessment and written report for the other distribution center.

(iv) For both distribution centers, the Ergonomic Consultant's ergonomic assessment and written report will address, and make recommendations with respect to, each of the hazards listed in OSHA's general duty clause citation for that distribution

center, and each of the suggested abatement methods, interim abatement measures and issues described in Exhibit A of this SA. For any abatement measures that entail new or increased utilization of particular equipment or practices by employees, the Ergonomic Consultant's assessment and report will consider the likely utilization by employees and obstacles to utilization, and will address methods and policies to best ensure that employees will actually utilize the equipment or practices. The Ergonomic Consultant's assessment and report will also address ergonomic hazards for employees of Respondent's contractors or subcontractors who perform selecting work in the distribution center, subject to III(E) below.

(v) For both distribution centers, the Ergonomic Consultant's ergonomic assessment and written report will also examine and make recommendations for revisions to Respondent's existing written ergonomics program, to ensure that the revised program reflects appropriate policies and priorities to reduce ergonomic hazards and prevent injuries at the distribution centers. Respondent's revised written ergonomics program will include at least the following elements: Management commitment; employee involvement; hazard identification and control; training; MSD management; and program evaluation.

(vi) For both distribution centers, the Ergonomic Consultant's ergonomic assessment will include consultation and input from the Ergonomics Committee described in III(C).

(vii) For both distribution centers, Respondent will provide a copy of the Ergonomic Consultant's report to OSHA within five days of Respondent's receipt of the final report. Draft reports, if any, will not be submitted to OSHA.

(B) Implementation of Ergonomic Consultant's recommendations, and reporting to OSHA

(i) For both distribution centers, Respondent will retain discretion to accept the specific recommendations in the Ergonomic Consultant's report, or to reject those recommendations and to adopt alternative measures reasonably calculated to achieve the underlying objectives of his recommendations. Within twenty days of Respondent's receipt of the Ergonomic Consultant's final report, Respondent will submit to OSHA a summary implementation plan for each distribution center. The implementation plan will include Respondent's expected implementation schedules for each of the specific recommendations in the report. The implementation plan will also include, for any material recommendations in the report not accepted by Respondent, an explanation of the reasons for rejecting or modifying those recommendations, including but not limited to explaining why such recommendations are infeasible, or are prohibited by state or federal law, or would create conditions resulting in a greater hazard for employees; along with explanation of and implementation schedule for any alternative measures adopted by Respondent for the rejected recommendations, and summary of any input from the Ergonomic Consultant regarding any alternative measures adopted by Respondent. Respondent will consult with the Ergonomics Committee described in III(C) regarding the implementation plan prior to submitting the implementation plan to OSHA. When Respondent submits to OSHA the summary implementation plan, Respondent will also submit to OSHA a copy of Respondent's revised ergonomics program.

(ii) Within twenty days of receiving Respondent's summary implementation plan, OSHA may provide any comments to Respondent and the Ergonomic Consultant.

(iii) Respondent will designate one or more person(s), qualified by appropriate education, training and experience, who may be employees of Respondent and/or outside consultants, as Ergonomics Coordinator(s) during the term of this SA to oversee implementation of the recommendations of the Ergonomic Consultant as adopted by Respondent per III(B)(i). The Ergonomic Coordinator(s) will provide leadership and support for implementation of the recommendations, and will have the authority to resolve problems that may arise in the implementation of the recommendations.

(iv) For both distribution centers, for the first year after Respondent's submission to OSHA of its summary implementation plan, Respondent's designated Ergonomics Coordinator(s) will conduct quarterly assessments of Respondent's implementation of the recommendations from the Ergonomic Consultant's report, as adopted by Respondent per III(B)(i), which assessments will include consultation and input from the Ergonomics Committee described in III(C). For each quarterly assessment, Respondent will submit to OSHA a written implementation report, with the first report to be submitted within three months after Respondent's submission to OSHA of its summary implementation plan. Each quarterly implementation report will include an update on Respondent's implementation of each of the recommendations from the Ergonomic Consultant's report, as adopted by Respondent per III(B)(i), including: a certification that the recommendation has been implemented, or a summary of Respondent's progress with respect to the planned implementation schedule, and/or an explanation of any deficiencies or obstacles in implementation of the recommendation as well as Respondent's plan and schedule for addressing such deficiencies or obstacles.

(v) For each distribution center, within two months of Respondent's submission to OSHA of its fourth and final quarterly implementation report, Respondent will engage a consultant qualified by appropriate education, training and experience ("the Follow-up Consultant"), to conduct a monitoring assessment to ascertain whether implementation of the recommendations from the Ergonomic Consultant's report, as adopted by Respondent per III(B)(i), remains in effect. Within three months of Respondent's submission to OSHA of its fourth and final quarterly implementation report, the Follow-up Consultant will submit to OSHA a report on the status of the adopted recommendations, including the Follow-up Consultant's explanation of any deficiencies found with respect to any of the recommendations as adopted.

(vi) For both distribution centers, within four months of the submission to OSHA of the Follow-up Consultant's report described in III(B)(v), Respondent's Ergonomics Coordinator(s) will conduct an assessment of Respondent's continuing implementation of the recommendations from the Ergonomic Consultant's report, as adopted by Respondent per III(B)(i), which assessment will include consultation and input from the Ergonomics Committee described in III(C). Based on that assessment, Respondent will submit to OSHA a written final status report within four months of the submission to OSHA of the Follow-up Consultant's report. For each of the recommendations from the Ergonomic Consultant's report, as adopted by Respondent per III(B)(i), the final status report will certify that the recommended measure remains in effect, or will explain any deficiencies in implementation of the recommendations as well as Respondent's plan and schedule for addressing such deficiencies.

(C) Ergonomics Committee

For each distribution center, Respondent will continue to encourage employee involvement in development and improvement of Respondent's ergonomics program, including by maintaining an Ergonomics Committee (which may be called a "slotting committee") that meets regularly, reviews ergonomic issues and makes recommendations to the Ergonomics Coordinator(s), and to the Ergonomic Consultant during his assessment. The Ergonomics Committee will include at least one representative of local management, as well as employees of Respondent's contractors and subcontractors who perform selecting work, and Respondent will exercise reasonable diligence to ensure that the Committee includes at least two employees from each work shift that performs selecting work. The Committee will seek to accommodate cross-shift scheduling conflicts, including enabling Committee members to give input for Committee meetings that they are unable to attend. Respondent will continue its current protocols regarding ergonomics training and will ensure that each employee member of the Ergonomics Committee has been trained in awareness of ergonomic hazards. In addition, within 30 days from the date this SA is fully executed, each current member of the Ergonomics Committee will meet with the Ergonomics Coordinator or his/her designee to discuss the SA, the current ergonomics program, the Ergonomics Consultant's planned work, and the role of the Ergonomics Committee and its employee members in the foregoing items. Each member of the Ergonomics Committee will also be provided with relevant ergonomics documents/resources, such as a hazard checklist. Subsequent new members of the Ergonomics Committee will meet to discuss such information within 30 days of joining the Ergonomics Committee. Once the Ergonomic Consultant's final report is

done, Respondent's implementation plan from that report will be discussed and explained to all Committee members.

(D) Interim abatement measures

For both distribution centers, Respondent's interim abatement measures are described in Exhibit A. Respondent will ensure that these measures, or comparably effective alternative measures, remain in place unless and until Respondent implements different measures based on the Ergonomic Consultant's recommendations pursuant to III(B).

(E) Contractor and Subcontractor employees

(i) For all interim abatement measures pursuant to III(D), and abatement measures implemented based on the Ergonomic Consultant's recommendations pursuant to III(B), that entail engineering, equipment, and infrastructure changes controlled by Respondent, when Respondent implements those measures for its own employees, Respondent will make those abatement measures available and accessible to employees of Respondent's contractors and subcontractors who perform selecting work at Respondent's distribution centers. Implementation and availability of such abatement measures for Respondent's contractors and subcontractors is subject to the discretion retained by Respondent, as set forth in III(B)(i), to accept the specific recommendations in the Ergonomic Consultant's report, or to reject those recommendations and to adopt alternative measures reasonably calculated to achieve the underlying objectives of his recommendations.

(ii) For all interim abatement measures pursuant to III(D), and abatement measures accepted and implemented based on the Ergonomic Consultant's recommendations pursuant to III(B), that pertain to work practices and administrative

controls of employees of Respondent's contractors and subcontractors who perform selecting work at Respondent's distribution centers, where such practices and conditions are not controlled by Respondent, Respondent, within 10 days of submitting its implementation plan to OSHA, will provide a copy to, and put each of those contractors and subcontractors on notice of, all such recommendations, and request each of those contractors and subcontractors to evaluate and consider implementation of those measures for their employees at Respondent's distribution centers, and will request that each of those contractors and subcontractors, within 30 days, provide Respondent with a written implementation plan for such measures Respondent will promptly forward to OSHA the written implementation plans received from Respondent's contractors and subcontractors, and will notify OSHA in writing of any contractor or subcontractor that did not provide Respondent with an implementation plan. Respondent will provide each contractor and subcontractor with a copy of this SA (including exhibits), and a copy of the final Ergonomic Consultant's report and the documents referenced in III(B) for the distribution center at which the contractor or subcontractor performs work. Respondent's contractors and subcontractors will retain discretion to accept the specific recommendations regarding work practices and administrative controls in the Ergonomic Consultant's report, or to reject those recommendations and to adopt alternative measures reasonably calculated to achieve the underlying objectives of his recommendations.

IV.

Withdrawal of Notice of Contest and Entry of Final Order

Respondent hereby withdraws its Notices of Contest and the Parties agree that this SA, as well as the Citations and proposed penalties and the abatement measures and dates, as amended

by this SA, and including the Additional Abatement Measures described in III, shall be affirmed and become a Final Order of the Commission.

V.

OSHA Monitoring

For the two year period this SA is effective, Respondent shall permit Complainant to enter into and conduct monitoring inspections at the Schodack Landing distribution center and the So. Portland distribution center to verify compliance with the SA. If Respondent so requests, OSHA will keep a monitoring inspection open to allow the Ergonomic Coordinator(s) to meet the CSHO and/or provide information to the CSHO. Respondent will not require warrants for entry by OSHA, and will cooperate with OSHA's reasonable requests for access to documents, witnesses, or other information related to compliance with the SA. The scope of the OSHA monitoring inspections shall be limited to the verification of compliance with this SA, unless other non-compliant conditions are observed in the plain view of an OSHA compliance officer during the verification visit. Nothing in this SA shall be construed as a waiver or limitation of OSHA's ability to monitor and/or enforce Respondent's compliance with the terms of the SA; nor shall it be a waiver of any rights of Respondent except as otherwise provided within the terms of this SA.

VI.

Effective Date and Term of SA

(A) This SA shall become effective on the date it is fully executed (the "Effective Date").

(B) The terms of this SA shall terminate on the date that is two (2) years after the Effective Date (the "Termination Date").

VII.

Penalties

(A) OSHRC Docket No. 14-1427: Respondent shall pay the amended proposed penalty of \$3500 within ten days from the date this SA is fully executed, by forwarding a check in that amount made payable to “Occupational Safety and Health – Labor” at the following address: U. S. Department of Labor, Occupational Safety and Health Administration, Albany Area Office, 401 New Karner Road, Suite 300, Albany, NY 12205.

(B) OSHRC Docket No. 15-0264: Respondent shall pay the amended proposed penalty of \$6250 within ten days from the date this SA is fully executed, by forwarding a check in that amount made payable to “Occupational Safety and Health – Labor” at the following address: U.S. Department of Labor, Occupational Safety and Health Administration, Augusta Area Office, E.S. Muskie Federal Building, 40 Western Ave., Room G-26, Augusta, ME 04330.

VIII.

Dispute Resolution

If, during the term of the SA, OSHA determines that Respondent is not in compliance with any portion of this SA, including but not limited to failing to abate or repeating a safety hazard that falls within the scope of the SA and that would ordinarily result in a citation, OSHA shall promptly notify Respondent in writing of its findings. Respondent shall have ten business days from receipt of OSHA’s notification to provide a written response to OSHA. Within fifteen business days of receipt of Respondent’s written response, the Parties will enter into discussions to attempt to resolve the issue(s). Where OSHA determines that any conditions identified are reasonably in the process of abatement pursuant to the SA, no citation shall issue. If a citation does issue, Respondent will have all the rights afforded employers to contest.

IX.

Failure to Abate and Section 11(b) of the Act

(A) The Parties understand and agree that their inability to reach an agreement regarding the alleged non-compliance with the SA, or, Respondent's failure to perform in good faith any of the terms or abatement measures and Additional Abatement Measures required in the SA, including the payment of penalties as set forth herein, may be cited by Complainant as a failure to abate under section 10(b) of the Act, 29 U.S.C. § 659(b), and may be subject to an enforcement action brought by Complainant pursuant to section 11(b) of the Act, 29 U.S.C. § 660(b), to the same extent as if these terms, abatement measures and Additional Abatement Measures had been set forth from the outset in the Citations and Notification of Penalties issued in these matters.

(B) Respondent will not oppose the entry, pursuant to section 11(b) of the Act, of an order of enforcement by the United States Court of Appeals to which Complainant presents this SA and supporting documents.

X.

Service and Posting of SA

(A) Respondent certifies that there are no authorized employee representatives at the Schodack distribution center. Respondent further certifies that it served this SA on the employees at the Schodack Landing distribution center on July 21, 2015 by posting it in a place where the Citations are required to be posted, in accordance with Rules 7 and 100 of the Commission's Rules of Procedure, for the duration of the SA.

(B) Respondent further certifies that it served this SA on the authorized employee representative for the So. Portland distribution center, UFCW Local 1445 on

July 21, 2015 c/o Bob Labrecque 50 Hemco Road, South Portland ME 04106, and the Respondent posted this SA at the So. Portland distribution center in a place where the Citations are required to be posted, in accordance with Rules 7 and 100 of the Commission's Rules of Procedure, for the duration of the SA.

XI.

Modification of Abatement Schedule

The Parties stipulate and agree that Respondent reserves the right to petition OSHA for modification of the abatement dates, pursuant to 29 C.F.R. § 1903.14a, if Respondent is unable to meet any abatement deadlines set forth above because of a factor beyond its reasonable control and despite its good faith effort to comply with the required abatement measures. The Parties further stipulate and agree that any extension of time approved by OSHA in response to a petition for modification of abatement date submitted by Respondent during the term of this SA shall be automatically incorporated into this SA and binding upon the Parties.

XII.

Citations During the Term of this SA

The SA does not limit OSHA's authority to conduct inspections of any of Respondent's workplaces pursuant to its normal inspection procedures. If, during any inspection conducted by OSHA during the term of the SA, OSHA identifies a violative condition addressed by this SA that would ordinarily result in a citation, the Parties will follow the dispute resolution procedure outlined in Section VIII above. However, nothing in this SA limits OSHA's ability to immediately issue citations to Respondent for conditions that are not the subject of the SA and nothing in this SA waives or limits Respondent's rights to contest any such citation.

XIII.

Notice and Communications

Any notice provided by a Party pursuant to this SA shall be in writing and delivered by certified mail to the following persons (or to the current incumbent of the position) at the following addresses:

(A) If to Complainant:

OSHA Albany Area Office, 401 New Karner Road, Suite 300, Albany, NY 12205
(for any submissions pertaining to the Schodack Landing distribution center or both distribution centers)

OSHA Augusta Area Office, E.S. Muskie Federal Building, 40 Western Ave., Room G-26, Augusta, ME 04330 (for any submissions pertaining to the So. Portland distribution center or both distribution centers)

(B) If to Respondent:

Hannaford Bros Co., LLC
ATTN: Legal Department
2110 Executive Drive
Salisbury, NC 28145

(C) If to the authorized employee representative (for So. Portland distribution center):

UFCW Local 1445
c/o Bob Labrecque
50 Hemco Road
South Portland, ME 04106

Any such notice shall be deemed provided on the date that the notice is deposited in the United States mail. Each party shall immediately notify the other party of any change in the name or address to whom notice is to be sent pursuant to this paragraph.

Any affected employee not represented by an authorized representative who has any objection to the entry of an order as set forth in this Agreement shall communicate such objections in writing within ten calendar days of the posting of this Agreement to:

Honorable Carol A. Baumerich, Judge
Occupational Safety and Health Review Commission
1120 20th Street, NW, Ninth Floor
Washington, DC 20036

A copy of said objection shall also be sent to the parties at the addresses listed above.

XIV.

Costs

Each Party hereby agrees to bear its own attorneys' fees, costs, and other expenses incurred by such Party in connection with any stage of these proceedings.

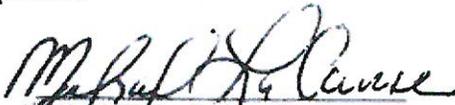
XV.

No Alteration of Employee Rights

Nothing in this Agreement alters in any manner the rights afforded employees under the OSH Act.

Dated: 7/20/15
New York, New York

HANNAFORD BROS. CO.
Respondent

By: 
MICHAEL LaCOURSE
Regional Director of Operations
(Northeast) for
Delhaize American Distribution LLC

M. PATRICIA SMITH
Solicitor of Labor


DANIEL HENNEFELD
Senior Trial Attorney

RALPH MINICHELLO
Senior Trial Attorney

U.S. DEPARTMENT OF LABOR
Attorneys for Complainant

EXHIBIT A

* = Hannaford does not currently have a directly responsive/applicable interim measure corresponding to the suggested abatement method. The suggested abatement method/issue will be considered by Hannaford and Ergonomic Consultant.

Suggested Abatement Methods	Hannaford Status & Interim Measures
<p>Provide an ergonomic assessment, by a certified professional ergonomist, industrial engineer, or other qualified professional, of the manual material handling tasks. The ergonomist, or other qualified professional, shall make recommendations for reducing or eliminating ergonomic risk factors from the work of the employees performing MMH tasks in the position as both Fresh, Grocery (Center Store), and Frozen Foods Selectors after his/her review of the material manual handling tasks and other physical factors. The ergonomics assessment should be repeated whenever conditions of order selection change (i.e., new product, new packaging, new slotting, or reported MSD injury or illness).</p>	<p>See SA Section III(A)</p>
<p>Have a certified professional ergonomist, or other competent person, review the order selectors' ergonomics training to ensure its effectiveness.</p>	<p>See SA Section III(A)</p>
<p>Engineering Controls; Engineering controls are to be designed by a qualified ergonomics professional and may include workplace redesign, work station redesign, equipment or tool redesign, and changes in work methods, practices and techniques. The goal is to make the job task fit the worker. Examples of control measures applicable to the observed job-specific tasks may include but are not limited to the following:</p> <p>1. Implement changes to the racking system and pallet jacks to minimize exposure to the hazards of manual materials handling.</p>	
<p>i. Reduce forward torso bending, twisting, and extended reaching by raising the height of the shelf that the product is located on so lifts can be performed between mid-thigh and mid-chest height. This is especially important for product</p>	<p>i. They have implemented numerous ergonomic selection pick slots. And, regular ergonomic "spins" of products in upper select slots are conducted to reduce reaching. In NY, they have a new racking system in the</p>

<p>that is in excess of 40 pounds or is particularly bulky, oversized or unstable. Care should be taken when elevating loads to ensure that the top levels of palletized product does not exceed the shoulder height of the order selector.</p>	<p>meat section (fresh area). They have raised many of the end caps in this section and are rotating the type of product based on weight in conjunction with the weekly sale ad. Wherever possible, they have ensured that there are no picks at, or above shoulder height > 20-25 lbs.</p>
<p>ii. Provide height-adjustable palletizers or scissors lifts that will automatically raise the lifting height when the product is unloaded. These have the advantage of lowering the height of the top level of the palletized load while still raising the height of the lowest levels of the palletized load.</p>	<p>*</p>
<p>iii. Elevate the height of the product to be lifted by providing a fixed height platform on which to place palletized loads. This will raise the lowest levels of the load to a more desirable height. Care must be taken not to raise the load to the heights which increases the risk while removing the upper levels. Several wooden pallets secured together and stacked on each other is one possibility to provide such a platform.</p>	<p>-Fast moving items are moved to end of aisles so that associates can reach layers easily while reduce reaching and can gain access from all sides of the pallet. -Addition of gravity racking and slots. -Regular ergonomic “spins” of products in upper select slots to reduce reaching.</p>
<p>iv. Use pallet jacks or fork lifts with height adjustable forks which can be raised to reduce the forward torso bending and twisting while loading the bottom layers of the order.</p>	<p>They currently have the type that raise product up to shin height.</p>
<p>v. Provide height-adjustable palletizers or scissors lifts on pallet jacks so the first level of a load can be placed at approximately waist height.</p>	<p>*</p>
<p>vi. Place several pallets stacked on top of each other on the pallet jack forks to raise the level of the destination height.</p>	<p>*</p>
<p>vii. Add structural cross members to the racking which will elevate the pallet height. This is common in push back type racking.</p>	<p>-Addition of gravity racking and slots. -Regular ergonomic “spins” of products in upper select slots to reduce reaching.</p>
<p>viii. Reduce torso bending and twisting and extended reaching by improving access to product before lifting. Train workers to move product close to the body before it is lifted. This is especially important for those products that present an increased risk to order selectors because of weight, size, or the frequency and duration of the pick.</p>	<p>-Increased use of plastic light-weight pallets (\$250,000 worth in 2014 alone). -Fast moving items moved to end of aisles so that associates can reach layers easily while reduce reaching and can gain access from all sides of the pallet. -Addition of gravity racking and slots. -Regular ergonomic “spins” of products in upper select slots to reduce reaching.</p>

	-Pick-sticks made available so associates can pull the product forward without reaching.
ix. Leave slots on the end of aisles open to allow order selectors to pick from the side as well as the front of the slot.	They are using more end caps for fast moving items, heavy items and high volume items.
x. Provide adequate access to, and around, pallets within the slot by increasing the slot width and height so order selectors can enter the slot without forward torso bending or twisting.	In NY, they have implemented a new racking system in the meat (fresh area) section.
xi. Improve access to products located at the back of pallets by providing turn tables, or a platform with casters which can be manually rolled from the slot and turned, or by removing and turning pallets with fork lifts.	Utilizing "Ergospin". This is where a PIT goes to turn a pallet around that has been picked from the front and needs to be turned. Hannaford and Ergonomic Consultant will consider at what point the pallet should be turned based on the product size/weight and based on the reach of the employees.
xiii. Install a track system which will allow the entire pallet of product to be pulled out of the bin. This measure will permit the pallet to be accessed from all sides and allow the load to be lifted, and keeping the load close to the body will eliminate the need for extended reaches, and torso flexion and twisting. The addition of a turntable will permit the rotation of the pallet 180 degrees, thus allowing placement back into the bin with the products previously in the back now easily accessible from the front.	They have implemented a gravity feed system and additionally have implemented the "Ergo spin". (Turning the pallet when product is selected from the front)
Provide adequate quantity and easy access to pick sticks near each multi-slot pick location in the facility. Pick sticks reduce extended reaches by allowing product to be pulled closer to the body before it is lifted.	•Pick-sticks made available for associates. Hannaford and Ergonomic Consultant will consider policy to ensure or encourage employee use of pick sticks, if appropriate.
Reduce the weight order selectors must lift during the shift by substituting heavy wooden pallets with lightweight plastic pallets. Plastic pallets are about half the weight of wooden pallets and require much less force exertion while lifting/handling.	They recently invested \$250,000 in plastic pallets, which are much lighter. They have currently replaced 80-90% of pallets in the facility. Additionally, they have allocated funds to continue to replace the wood pallets and maintain the current inventory.
2. Develop and implement measures to reduce the force order selectors must exert to perform non-lifting tasks.	•Plastic wrap rollers are offered to every new hire and are available upon request thereafter. •Ergonomic retractable cutting knives offered and in use.
i. Acquire automated plastic stretch wrap stations. With these stations the order selector deposits a filled pallet onto a turn table and the	*

load is automatically wrapped .	
If loads must be manually wrapped, modify the tools and working techniques to reduce physical stress to the order selectors	Plastic wrap rollers are offered to every new hire and are available upon request thereafter.
iii. Provide smaller, lighter and narrower, rolls of plastic wrap to order selectors. These weigh less and require less force when pulling plastic wrap from the roll.	*
iv. Provide a handle for manual stretch wrapping which allows order selectors to maintain neutral postures of upper extremities and reduces the amount of forward torso bending and twisting.	*
v. Reduce force requirements on the hand/wrist by providing appropriate ergonomic knives (i.e., utility, retractable box cutter) for cutting wrapping plastic.	Ergonomic knives are provided and in use.
vi. Work cooperatively with suppliers to modify the properties of products including the weight, size, bulk, hand coupling, and resistance to movement. Improving the characteristics of the product will reduce the risk of injury t Packaging should have handles or cutouts to ensure good hand coupling. i. Packages should be no wider than about shoulder width. ii. Packages should weigh no more than about 40 pounds. iii. iv. Slip sheets should be placed between layers of plastic-wrapped cases (tray packs) so order selectors can slide product close to the body before it is lifted. o the order selectors.	Their local vendors make up about 10% of their suppliers and they have reached out to them, and have started to discuss packaging changes that might be feasible. Ergonomic Consultant will assist in discussions with other vendors/suppliers as appropriate.
B. Administrative Controls: Administrative controls should be implemented to reduce the duration, frequency, and magnitude of the order selectors exposure to ergonomics risk factors. These controls may include, but are not limited to, job rotation, work rest scheduling, reduction of repetitive task rate through additional staffing, or the reduction of work quotas. For any administrative control measure, a detailed job and task analysis must be performed to assure that other stressors, body part movements, or musculoskeletal system usage is	

<p>not present at a magnitude that would be beyond the capability of the worker. Some examples of controls which may be used at this site include:</p>	
<p>1. Develop work processes and train order selectors to recognize job-specific ergonomic hazards and perform their tasks with minimum stress to the body.</p> <p>i. Ensure that current weight cube restrictions are enforced when building a palletized load. These restrictions limit the weight that can be placed at certain heights of the palletized load.</p>	<p>i. They have developed a “slotting committee” comprised of employees and management, including the plant manager and have put more emphasis on this and enforcing the observation of improper lifts, developing better working techniques and training. Ergonomic Consultant will help develop job descriptions via job & task analyses. See also SA provisions regarding Ergonomics Committee.</p>
<p>ii. Improve access to cases by removing stretch wrap and banding before product is placed in the pick slots.</p>	<p>ii. This has been implemented and is required.</p>
<p>iii. Have the slotting committee identify and propose less physically demanding slots for products and provide this information into rotation and ergonomic assessment projects and plans.</p>	<p>iii. They have developed a “slotting committee” comprised of employees and management, including the plant manager and have put more emphasis on this and enforcing the observation of improper lifts, developing better working techniques and training. See also SA provisions regarding Ergonomics Committee.</p>
<p>iv. Provide ergonomic awareness training to order selectors as well as other employees working in the facility that teach employees basic ergonomics principles, ergonomics hazard recognition, proper work methods, practices and techniques, recognition of signs and symptoms of MSDs, and the importance of their early reporting.</p>	<p>iv. Training is provided, and will be improved through the help of the slotting committee. See also SA provisions regarding Ergonomics Committee.</p>
<p>vi. Train and enforce the layer picking technique that requires all the cases from a layer are picked from one layer before removing the cases from the next layer.</p>	<p>vi. This has been implemented and is required except where modified due to ergo spins.</p>
<p>Develop processes and procedures to turn pallets 180o for better access when reaches exceed half the pallet and if layer picking is not possible and product is selected from a pyramid form.</p>	<p>vii. See A. i</p>
<p>Train order selectors to avoid lifting more than one item at a time if the total weight of the lift</p>	<p>viii. They have a rule for weight of lift The rule is enforced via Management walkarounds</p>

<p>exceeds a specified weight. This is generally 35 to 50 pounds, but may vary depending on analysis of the manner in which the task is performed.</p>	<p>and peer observations. Ergonomic Consultant will consider appropriate weight and work practice.</p>
<p>2. Design work schedules and order selection rates to provide periods for rest and recuperation.</p> <p>i. Schedule breaks for order selectors to recover from local and whole body fatigue</p>	<p>i. In NY, two 15 minute breaks and a 30 minute lunch is provided. There are additional breaks when overtime is required. In Maine, consistent with the collective bargaining agreement, there are two 20 minute breaks; except in frozen where there is a 15 minute break every two hours.</p>
<p>ii. Develop rotation schedules and policies so order selectors can rotate through other jobs and/or tasks, which produce less stress. Periods of work-rest may be appropriate if they utilize different muscle groups.</p>	<p>ii. Except where prohibited by the collective bargaining agreement, there is a policy that the employees are rotated from heavier tasks to lighter tasks throughout the warehouse so no one employee is working on heavier items, for the entire shift.</p>
<p>iii. All job-specific tasks should be evaluated by a certified professional Ergonomic Consultant, industrial engineer, or other qualified professional to determine the risk factors of each task. This evaluation will be necessary to develop an appropriate rotation schedule.</p>	<p>iii. See SA Section III(A)</p>
<p>Develop overtime polices to minimize the risk of over-exertion.</p> <p>Ask for volunteers for overtime first, before assigning employees to work overtime.</p> <p>ii. Assign overtime to employees who are not experiencing or recovering from MSDs.</p> <p>iii. Assign overtime, if possible, by working more days in the week rather than working longer during the days.</p> <p>iv. Provide additional rest to order selectors or</p>	<p>Hannaford already implements these practices listed.</p> <p>Accommodating TWP Program, including prohibition of overtime for employees on TW.</p> <p>ii. In NY, overtime posted and assigned first to volunteers before mandated overtime.</p> <p>*</p> <p>iv. In NY, there are two 15-minute breaks during the work day with ½ hour for lunch, and an additional 15 minutes for every two hours of overtime. In Maine, consistent with</p>

<p>incorporate lunch periods into the day if extended day overtime is to be worked.</p>	<p>the collective bargaining agreement, there are two 20 minute breaks; except in frozen where there is a 15 minute break every two hours.</p>
<p>4. Improve recordkeeping on the OSHA 300 logs with more accuracy and specifically describe the location of the recordable injury or illness to assist in discovering ergonomic problems and to tracking progress in solving these problems.</p>	<p>They have developed a more detailed system to track and trend injuries. The Safety manager at the facility, and corporate office and a health care professional are involved with this now.</p>
<p>5. The employer should implement a safety incentive program that includes focus on a positive safety action. Incentives to work faster, such as additional pay or early release from work are production focused and may result in employees taking unnecessary short cuts or using improper ergonomic technique which potentially leads to unsafe acts.</p>	<p>Safety is now considered in performance evaluations for all employees. Hannaford and Ergonomic Consultant will evaluate “EOP” and any other existing production/speed incentives.</p>
<p>C. Work Practice</p> <p>1. When an improper lifting technique is observed by the supervisor, there should be immediate intervention and training to correct the improper technique. Ensure through proper training and formal enforcement of safe lifting rules, that the order selectors do the following: bring product to the body before lifting, avoid torso bending and twisting while lifting, avoid extended reaching across pallets, and for most product lift only one item at a time.</p>	<p>1. There has been a great deal of emphasis placed on this since the inspection started. There is also peer review to help with this matter as well.</p> <p>Implementation of monthly lifting evaluations with built in feedback mechanism and coaching guidelines.</p> <p>Committees and Associate feedback mechanisms.</p> <ul style="list-style-type: none"> •Safety Committee made up of associates and management. •Accident review committee made up of associates and management. •Annual “Birthday” meetings with associates to discuss suggestions (Safety is large element). •Safety Message Board Systems.
<p>2. Instruct order selectors to position pallet jacks close to products to be picked that can help reduce travel distance between the products and the pallet jack.</p>	<p>2. Hannaford has implemented this practice.</p> <ul style="list-style-type: none"> •Ergonomic select on orders (once a pallet reaches a certain height the weight limit gets cut to no cases over 22-25 lbs). •Slotting committee made up of associates and their feedback.
<p>3. Implement work practice controls for conditioning and ramp-in of new employees,</p>	<p>3.Pre-employment JobFit testing</p> <ul style="list-style-type: none"> •Additionally, they have instituted job

<p>injured employees returning to the job, and/or employees returning from leave or other absences.</p>	<p>hardening.</p> <ul style="list-style-type: none"> •Pre-Shift Paid Stretch program – In NY, workers utilize 16 exercises and have training around proper lifting and ergonomic techniques. •1:1 training for first week of initial PIT training...scheduled follow-ups thereafter. (Lifting and proper selection techniques reinforced). •90 day probationary period where the associate is not held accountable to standard minimum output/performance requirements (focus is on safety and quality). •1:1 meetings weekly with management with new hires to hear feedback.
<p>4. Provide order selectors with appropriate warm-up exercises and a period of time at the beginning of a shift and after lunch to perform the warm-up exercises.</p>	<p>4. In NY, employees do stretching with management at the beginning of the shift during the 15 minute pre-shift meeting, on the clock. In ME, employees have a time allotment on the clock to stretch or prepare for work. They also allow time to stretch for employees transferring to different areas. Hannaford and Ergonomic Consultant will consider requiring stretching after breaks as well.</p>
<p>D. Personal Protective Equipment (PPE) 1. Provide order selectors the option of using knee pads when kneeling is required. Knee pads should be available in small, medium, or large size.</p>	<p>1. Employees are not required to kneel, nor do any of the product selections necessitate that.</p>
<p>2. Provide high friction gloves to order selectors that can help reduce force requirements of job-specific order pulling/selection tasks involving repetitive lifting/handling of cases.</p>	<p>2. Hannaford provides all employees with a clothing allowance. Gloves are not required. Specific gloves are not required; however employees are able to purchase them with their clothing allowance. There are numerous types of high friction gloves available to the employees and if they suggest a specific type, the company will order them. Vendors are on-site several times/year and the employees are able to talk with them. Hannaford and Ergonomic Consultant will consider how to ensure and encourage employee use of appropriate gloves.</p>

<p>E. Medical Management</p> <p>1. Develop and implement a mechanism for early reporting of signs and symptoms of MSDs as well as training order selectors to understand the mechanism of MSD progression and the importance of early recognition and reporting of signs and symptoms of work-related MSDs. The proposed strategy can help reduce the incidence and severity of work-related MSDs.</p>	<p>1. This has always been a policy with Hannaford. •Early reporting is encouraged and training is provided in orientation and annually.</p> <ul style="list-style-type: none"> •Additionally, there are feedback talks with employees monthly on how they are doing. •The employees have Annual “Birthday” meetings with associates to discuss suggestions (Safety is large element). •Safety Message Board with posted information about correct lifting and stretching.
<p>2. Provide appropriate light duty jobs that are consistent with medical restrictions.</p>	<p>2. They have a transitional return to work program and allow for light duty work and abide by doctor recommendations.</p>
<p>3. Designate a medical provider who is familiar with selector tasks to provide tailored fitness-for-duty and job accommodation recommendations to management. This is likely to speed recovery and reduce disability.</p>	<p>3. They do have an occupational physician available and provide employees with contact information. However, in NYS they cannot mandate the employees go to their Company Doctor. The health care professional is involved with training, light duty assignments and injury and illness evaluation for the logs.</p>

Exhibit B - Abatement Timing Chart

Event	<u>First DC - Days after SA executed</u>	<u>Calendar Date</u>	<u>Second DC - Days after SA executed</u>	<u>Calendar Date</u>
Consultant's report	50	9/8/2015	100	10/28/2015
Implementation Plan	70	9/28/2015	120	11/17/2015
1st quarterly report	160	12/27/2015	210	2/15/2016
2nd quarterly report	250	3/26/2016	300	5/15/2016
3rd quarterly report	340	6/24/2016	390	8/13/2016
4th quarterly report	430	9/22/2016	480	11/11/2016
Follow-up Consultant's report	520	12/21/2016	570	2/9/2017
Final status report	640	4/20/2017	690	6/9/2017