**U.S. Department of Labor**
Occupational Safety and Health Administration
4404 South Technology Drive
Sioux Falls, SD 57106
Phone: 605-251-2021 Fax: 720-264-6585

# Citation and Notification of Penalty

**To:**
Sioux River Ethanol, LLC, dba POET Biorefining-Hudson
29619 SPUR AVE.
Hudson, SD 57034

**Inspection Site:**
29619 Spur Ave.
Hudson, SD 57034

**Inspection Number**: 1147473
**Inspection Dates**: 05/09/2016 – 11/01/2016
**Issuance Date**: 11/01/2016

*The violations described in this Citation and Notification of Penalty are alleged to have occurred on or about the days 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 penalties listed herein 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 violations 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 violations 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 citations and/or penalties.

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 penalties within 15 working days after receipt, the citation(s) and the proposed penalties 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.

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

# NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citations issued on 11/01/2016. The conference will be held by telephone or at the OSHA office located at 4404 South Technology Drive, Sioux Falls, SD 57106 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

## CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

**Inspection Number: 1147473**

Company Name: Sioux River Ethanol, LLC, dba POET Biorefining-Hudson
Inspection Site: 29619 Spur Ave., Hudson, SD 57034
Issuance Date: 11/01/2016

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, 4404 South Technology Drive, Sioux Falls, SD 57106**

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:** Sioux River Ethanol, LLC, dba POET Biorefining-Hudson
**Inspection Site:** 29619 Spur Ave., Hudson, SD 57034

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

29 CFR 1926.64(f)(1)(i)(F): The employer did not implement written operating procedures that provide clear instructions for safely conducting normal shutdown activities:

(a) **Sioux River Ethanol, LLC d/b/a POET Biorefining-Hudson @ 29619 Spur Ave., Hudson, SD, 57034:** On and prior to May 6, 2016, the controlling employer did not ensure contract employees were protected from fire hazards, in that, pipefitters opened a four-inch vent line off the top of vessel T-402, also known as the rectifier, which the employer had previously shutdown, but not adequately purged of 190-proof ethyl-alcohol. On May 6, 2016 a contractor pipefitter involved in the removal of the vent line on the sixth floor of distillation, was severely burned and later died as a result of a flash fire. While removing the four-inch vent line the flammable contents of the pipe (190-proof alcohol) spilled onto the contractor and through the grating beneath the contractor. A flash fire occurred when the flammable material was ignited as a result of welding work that was being conducted on the fourth floor. This condition exposed employees to fire and burn hazards.

**Abatement Note:** Abatement certification and documentation are required for this item (see enclosed "Certification of Corrective Action Worksheet").

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

| | |
|---|---|
| Date By Which Violation Must be Abated: | 11/25/2016 |
| Proposed Penalty: | $12471.00 |

## Citation and Notification of Penalty

**Company Name:** Sioux River Ethanol, LLC, dba POET Biorefining-Hudson
**Inspection Site:** 29619 Spur Ave., Hudson, SD 57034

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

29 CFR 1926.64(h)(2)(ii): The employer shall inform contract employers of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

(a) **Sioux River Ethanol, LLC d/b/a POET Biorefining-Hudson @ 29619 Spur Ave., Hudson, SD, 57034:** On and prior to May 6, 2016, the controlling employer did not inform a contract employer of the potential fire hazards related to opening a vent line off the top of vessel T-402, also known as the rectifier, which had the potential to contain 190-proof ethyl alcohol. On May 6, 2016, a contract pipefitter involved in the removal of the vent line on the sixth floor of distillation building, was severely burned and later died as a result of a flash fire. Two contract pipefitters were involved in a line break of a four inch vent line pipe that contained flammable liquid (190-proof alcohol) that spilled from the line, covered one employee, and travelled through the grated flooring to the fourth floor, where the material ignited as a result of the welding work that was being conducted. This condition exposed contract employees to fire and burn hazards.

**Abatement Note:** Abatement certification and documentation are required for this item (see enclosed "Certification of Corrective Action Worksheet").

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 11/25/2016
Proposed Penalty: $12471.00

## Citation and Notification of Penalty

**Company Name:** Sioux River Ethanol, LLC, dba POET Biorefining-Hudson
**Inspection Site:** 29619 Spur Ave., Hudson, SD 57034

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

29 CFR 1926.64(h)(2)(iv): The employer shall develop and implement safe work practices consistent with paragraph (f)(4) of this section, to control the entrance, presence and exit of contract employers and contract employees in covered process areas.

(a) **Sioux River Ethanol, LLC d/b/a POET Biorefining-Hudson @ 29619 Spur Ave., Hudson, SD, 57034:** On and prior to May 6, 2016, the controlling employer did not implement a line breaking permit process which prohibited the issuance of a line break permit to a contractor performing a line break on a line potentially containing 190-proof ethyl alcohol while hot work was being performed directly below. On May 6, 2016, a contractor pipefitter involved in the removal of the vent line on the sixth floor of distillation, was severely burned and later died as a result of a flash fire. Two subcontractor pipefitters were involved in a line break of a four-inch vent line pipe that contained flammable liquid (190-proof alcohol) that spilled from the line, covered one employee, and travelled through the grated flooring to the fourth floor, where the material ignited as a result of welding work that was being conducted. This condition exposed contractor employees to fire and burn hazards.

**Abatement Note:** Abatement certification and documentation are required for this item (see enclosed "Certification of Corrective Action Worksheet").

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 11/25/2016
Proposed Penalty: $12471.00

Sheila Stanley

**Sheila Stanley**
Area Director

**U.S. Department of Labor**
Occupational Safety and Health Administration
4404 South Technology Drive
Sioux Falls, SD 57106
Phone: 605-251-2021 Fax: 720-264-6585

# INVOICE / DEBT COLLECTION NOTICE

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|---|---|
| **Company Name:** | **Sioux River Ethanol, LLC, dba POET Biorefining-Hudson** |
| **Inspection Site:** | **29619 Spur Ave., Hudson, SD 57034** |
| **Issuance Date:** | **11/01/2016** |

| | |
|---|---|
| **Summary of Penalties for Inspection Number** | **1147473** |
| **Citation 1, Serious** | **$37413.00** |
| **TOTAL PROPOSED PENALTIES** | **$37413.00** |

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.

Sheila Stanley

**Sheila Stanley**
Area Director

11/1/2016
Date