

**Este documento es muy importante. Si ud. No habla inglés,
busque un traductor o llame al (920) 734-4521.**

U.S. Department of Labor Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914
Phone: (920) 734-4521 Fax: (920) 734-2661

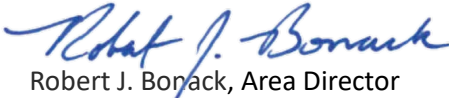


January 4, 2023

Dear Rob Hungerford,

On 08/23/2022, an OSHA compliance officer met with you or your representative as part of an inspection at 605 Washington Street, Manitowoc, WI 54220. This letter includes the citations for the violations that were found (see summary below). Please choose one of the three options from the box to the right and complete the associated steps found on the following page **within 15 working days**. Please call us if you have any questions about the enclosed citation and/or penalties; we are here to help you choose the best option to resolve your citation as quickly as possible.

Sincerely,


Robert J. Borack, Area Director

Your Citation Summary

Briess Industries, Inc.

Inspection Number: 1616406

Total Amount Due: \$38,972.00

**Payment Due Date: 15 working days
after receipt of
this letter**

You must correct each violation by the date listed in the Citation and Notification of Penalty. Please see the violations and the correction deadline for each violation starting on page 6.

Total Number of Violations : 4

**Your First Correction Deadline is:
February 2, 2023**

Step 1 – Choose a Response Option and Act within 15 working days

Respond now before you lose the ability to discuss potential adjustments to penalty amounts and/or due dates. Please choose one option below and complete the steps on the next page.

Option #1 – Discuss with OSHA

I would like to discuss the citation with an OSHA representative. This may lead to changes in the penalty amount, due date or correction deadlines (if appropriate).

Option #2 – Correct and Pay

I agree with the citation, penalties, and correction deadlines, and do not contest.

Option #3 – Contest the Citation

I do not agree with the citation, penalties, and/or correction deadlines, and would like to contest.

Questions or Concerns?

If you have any questions or concerns regarding the citation, penalties, and/or correction deadlines, please call us at (920) 734-4521.

Step 2 – Complete One Option Checklist

Please post a copy of the citation at or near the place where each violation occurred, even if you plan to contest. You can use the checklist to the right to help plan your next steps. Please do not send in your checklist.

Option #1 – Discuss with OSHA

I will complete by:



1. Call our office at (920) 734-4521 as soon as possible to schedule a meeting with an OSHA representative that must occur **within 15 working days** of receiving this citation. Bring supporting documentation of existing conditions and corrections done thus far. If necessary, you can still contest the citation after this meeting. ****This meeting does NOT extend your 15 working day deadline to contest the citation.****

___ / ___



2. Fill in and post the attached "Notice to Employees OSHA Informal Conference" after scheduling meeting.

___ / ___

Option #2 – Correct Violations and Pay Penalty

I will complete by:



1. Correct violations, then complete and mail the attached "Certification of Corrective Action Worksheet" along with the appropriate evidence of repair (e.g. photos, purchase orders, etc.) to the OSHA office listed on the first page, **postmarked within 10 calendar days after each violation's correction deadline and include any required evidence. If these documents are transmitted by means other than mailing, the date the Agency received the documents is the date of submission.**

___ / ___



2. Pay the **Total Penalty** by using one of the following methods:
****Include your Inspection Number (see first page) on the payment.****

___ / ___

Pay Online: Search "OSHA" on www.pay.gov and complete the "OSHA Penalty Payment Form." Pay by debit, credit or Automated Clearing House (ACH) **within 15 working days.** Penalties over \$25,000 must be paid by ACH and require a Transaction ID (Call 202-693-2170 to obtain one).

Pay by Check: Mail check or money order payable to "DOL-OSHA" for the Total Penalty to the OSHA office listed on the first page **within 15 working days.**

Option #3 – Contest the Citation

I will complete by:



Mail a letter of intent to legally contest to the OSHA office listed on the first page, postmarked within **15 working days.**

___ / ___

U.S. Department of Labor Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



01/04/2023

Briess Industries, Inc., dba Briess Malt & Ingredients Co
and its successors
625 Irish Road
Chilton, WI 53014

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 3000-04R) revised 2018, 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 (920) 734-4521.

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,


Robert J. Bonack
Area Director

Enclosures

U.S. Department of Labor

Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



Citation and Notification of Penalty

To:
Briess Industries, Inc., dba Briess Malt & Ingredients
Co
and its successors
625 Irish Road
Chilton, WI 53014

Inspection Site:
605 Washington Street
Manitowoc, WI 54220

Inspection Number: 1616406
Inspection Date(s): 08/23/2022 - 08/23/2022
Issuance Date: 01/04/2023

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 (920) 734-4521. 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 01/04/2023. The conference will be held by telephone or at the OSHA office located at 1648 Tri Park Way, Appleton, WI 54914 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1616406

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220
Issuance Date: 01/04/2023

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, 1648 Tri Park Way, Appleton, WI 54914.**

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

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

29 CFR 1910.134(d)(3)(iii)(B)(2): If there is no ESLI (end-of-service-life indicator) appropriate for conditions in the employer's workplace, the employer implements a change schedule for canisters and cartridges that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life. The employer shall describe in the respirator program the information and data relied upon and the basis for the canister and cartridge change schedule and the basis for reliance on the data.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin; the employer's written respiratory protection program did not implement a change schedule for cartridges to ensure they are changed before the end of their service life. Employees were required to wear Draeger 5500 X-plore full-face respirators equipped with combination filters (P/N: 6738361) during bleaching activities.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$8,204.00

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

Inspection Number: 1616406
Inspection Date(s): 08/23/2022 - 08/23/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.134(h)(1)(i): Respirators issued for the exclusive use of an employee shall be cleaned and disinfected as often as necessary to be maintained in a sanitary condition.

On or about August 9, 2022, at an establishment located at 605 Washington Street in Manitowoc, Wisconsin; the employer did not ensure that respirators issued for the exclusive use of an employee were cleaned and disinfected as often as necessary to be maintained in a sanitary condition. Employees engaged in sanitation duties were required to wear a Draeger 5500 X-plore full-face respirator equipped with combination filters (P/N: 6738361) that were not maintained in a sanitary condition.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$0.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

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

29 CFR 1910.146(c)(2): If the workplace contains permit spaces, the employer shall inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces. NOTE: A sign reading DANGER -- PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER or using other similar language would satisfy the requirement for a sign.

a) On or about August 24, 2022, at an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6; the employer did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence, location, and danger posed by the permit spaces of the upper loading deck of the kiln. Employees were required to enter the spaces to conduct activities such as, but not limited to, collecting grain samples, performing blowdown of the trays between different grain varieties, and loading grain.

b) On or about September 29, 2022, to October 3, 2022, at an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6; the employer did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence, location, and danger posed by the permit spaces of the lower loading deck of the kiln. Employees were required to enter the space to conduct activities such as, but not limited to collecting grain samples.

c) On or about August 24, 2022, at an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6; the employer did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence, location, and danger posed by the permit spaces of the germ bed compartments. Employees were required to enter the spaces daily to conduct activities such as, but not limited to cleaning and unloading the grain from the germ bed.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

March 17, 2023
\$10,256.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.146(c)(4): If the employer decides that its employees will enter permit spaces, the employer shall develop and implement a written permit space program that complies with this section. The written program shall be available for inspection by employees and their authorized representatives.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6:

- a) The employer did not develop and implement a written permit space program that complies with this section. Employees were exposed to potential atmospheric and mechanical hazards when entering the upper loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to, collecting grain samples, loading grain, and to perform blowdown between different grain varieties.
- b) The employer did not develop and implement a written permit space program that complies with this section. Employees were exposed to potential thermal and mechanical hazards when entering the lower loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to collecting grain samples.
- c) The employer did not develop and implement a written permit space program that complies with this section. Employees were exposed to the potential atmospheric and mechanical hazards when they were required to enter that space to conduct activities such as, but not limited to, cleaning and emptying the germ beds.

All provisions of 29 CFR 1910.146(c) through (k) must be covered in a written permit required confined space (PRCS) program. Key elements include, but are not limited to the following:

- 1) Evaluation of all spaces for PRCS
- 2) Informing employees of PRCS locations
- 3) PRCS entry permit program
- 4) Training of affected, entrant, attendant and supervisor employees' duties
- 5) Emergency rescue plan

Note: A permit required confined space may be reclassified as a non-permit confined space under the procedures of 1910.147(c)(7).

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: **March 17, 2023**
Proposed Penalty: **\$0.00**

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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 1910.146(d)(1): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not implement the measures necessary to prevent unauthorized entry.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6;

- a) The employer did not take effective measures to prevent unauthorized entry into the upper loading deck of the kiln. Employees entered this area without implementation of any measures required for entry into a permit required confined space that contained potential atmospheric and mechanical hazards.
- b) The employer did not take effective measures to prevent unauthorized entry into the lower loading deck of the kiln. Employees entered this area without implementation of any measures required for entry into a permit required confined space that contained thermal and mechanical hazards.
- c) The employer did not take effective measures to prevent unauthorized entry into the four germ beds. Employees entered these areas without implementation of any measures required for entry into a permit required confined space that contained potential atmospheric and mechanical hazards.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	March 17, 2023
Proposed Penalty:	\$10,256.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.146(d)(2): Under the permit space program required by paragraph (c)(4) of 29 CFR 1910.146, the employer shall identify and evaluate the hazards of permit spaces before employees enter them.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6:

- a) On or about August 24, 2022, the employer did not identify and evaluate the hazards of the permit space of the upper loading deck of the kiln before employees entered it. Employees were exposed to potential atmospheric and mechanical hazards when entering the upper loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to, collecting grain samples, loading grain, and to perform blowdown between different grain varieties.
- b) On or about September 29, 2022, to October 3, 2022, the employer did not identify and evaluate the hazards of the permit space of the lower loading deck of the kiln before employees entered it. Employees were exposed to potential thermal and mechanical hazards when entering the lower loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to collecting grain samples.
- c) On or about August 24, 2022, the employer did not identify and evaluate the hazards of the permit space of the Germ Bed Compartment 2 before employees entered it. Employees were exposed to the potential atmospheric and mechanical hazards when they were required to enter that space to conduct activities such as, but not limited to, cleaning and emptying the germ beds.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	March 17, 2023
Proposed Penalty:	\$0.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.146(d)(3): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations:

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6:

- a) On or about August 24, 2022, the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations into the permit-required confined space of the upper deck of the kiln. Employees were exposed to potential atmospheric and mechanical hazards when entering the upper loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to, collecting grain samples, loading grain, and to perform blowdown between different grain varieties.
- b) On or about September 29, 2022, to October 3, 2022, the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations into the permit-required confined space of the lower deck of the kiln. Employees were exposed to potential thermal and mechanical hazards when entering the lower loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to collecting grain samples.
- c) On or about August 24, 2022, the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations into the permit-required confined space of the Germ Bed Compartment 2. Employees were exposed to the potential atmospheric and mechanical hazards when they were required to enter that space to conduct activities such as, but not limited to, cleaning and emptying the germ beds.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

March 17, 2023
\$0.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.146(d)(5)(iii): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), when testing for atmospheric hazards, the employer did not evaluate permit space conditions when entry operations were conducted by testing first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors:

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6:

- a) On or about August 24, 2022, the employer did not evaluate permit space conditions in the upper loading deck of the kiln when entry operations were conducted by testing first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors, in that order. Employees were exposed to potential atmospheric and mechanical hazards when entering the upper loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to, collecting grain samples, loading grain, and to perform blowdown between different grain varieties.
- b) On or about September 29, 2022, to October 3, 2022, the employer did not evaluate permit space conditions in the lower loading deck of the kiln when entry operations were conducted by testing first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors, in that order. Employees were exposed to potential thermal and mechanical hazards when entering the lower loading deck of the kiln when they were required to enter that space to conduct activities such as, but not limited to, collecting grain samples.
- c) On or about August 24, 2022, the employer did not evaluate permit space conditions in the Germ Bed Compartment 2 when entry operations were conducted by testing first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors, in that order. Employees were exposed to the potential atmospheric and mechanical hazards when they were required to enter that space to conduct activities such as, but not limited to, cleaning and emptying the germ beds.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

March 17, 2023
\$0.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.146(k)(1)(i): Evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6; the employer did not evaluate the prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the potential atmospheric, thermal, and mechanical hazards identified in the upper and lower loading decks of the kiln, and in the four compartments of the germ beds.

Note to paragraph (k)(1)(i): What will be considered timely will vary according to the specific hazards involved in each entry. For example, Â§1910.134, Respiratory Protection, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) wearing respiratory protection while in work areas defined as IDLH atmospheres.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: **March 17, 2023**
Proposed Penalty: **\$0.00**



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

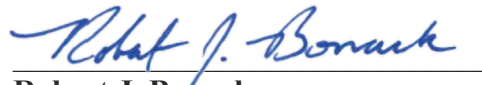
Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.146(g)(1): The employer shall provide training so that all employees whose work is regulated by this section acquire the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this section.

At an establishment located at 605 Washington Street in Manitowoc, Wisconsin, in Malt House 6; the employer did not provide training so that all employees whose work is regulated by the permit required confined space standard acquired the understanding, knowledge, and skills necessary for the safe performance of the duties assigned. Malt House Operator employees were not trained in the duties for authorized entrants, attendants, entry supervisors and affected positions.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: **March 17, 2023**
Proposed Penalty: **\$10,256.00**


Robert J. Bonack
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220
Issuance Date: 01/04/2023

Summary of Penalties for Inspection Number: 1616406

Citation 1 Item 1a, Serious	\$8,204.00
Citation 1 Item 1b, Serious	\$0.00
Citation 1 Item 2a, Serious	\$10,256.00
Citation 1 Item 2b, Serious	\$0.00
Citation 1 Item 3a, Serious	\$10,256.00
Citation 1 Item 3b, Serious	\$0.00
Citation 1 Item 3c, Serious	\$0.00
Citation 1 Item 3d, Serious	\$0.00
Citation 1 Item 3e, Serious	\$0.00
Citation 1 Item 4, Serious	\$10,256.00

TOTAL PROPOSED PENALTIES: \$38,972.00

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.

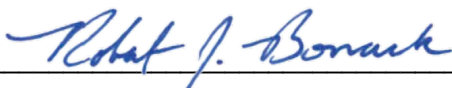
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within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



Robert J. Bonack

Area Director

January 5, 2023

Date

**Este documento es muy importante. Si ud. No habla inglés,
busque un traductor o llame al (920) 734-4521.**

U.S. Department of Labor Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914
Phone: (920) 734-4521 Fax: (920) 734-2661




January 4, 2023

Dear Rob Hungerford,

On 08/23/2022, an OSHA compliance officer met with you or your representative as part of an inspection at 605 Washington Street, Manitowoc, WI 54220. This letter includes the citations for the violations that were found (see summary below). Please choose one of the three options from the box to the right and complete the associated steps found on the following page **within 15 working days**. Please call us if you have any questions about the enclosed citation and/or penalties; we are here to help you choose the best option to resolve your citation as quickly as possible.

Sincerely,


Robert J. Bonack, Area Director

Your Citation Summary

Briess Industries, Inc.

Inspection Number: 1617134

Total Amount Due: \$135,379.00

**Payment Due Date: 15 working days
after receipt of
this letter**

You must correct each violation by the date listed in the Citation and Notification of Penalty. Please see the violations and the correction deadline for each violation starting on page 6.

Total Number of Violations : 12

**Your First Correction Deadline is:
February 2, 2023**

Step 1 – Choose a Response Option and Act within 15 working days

Respond now before you lose the ability to discuss potential adjustments to penalty amounts and/or due dates. Please choose one option below and complete the steps on the next page.

Option #1 – Discuss with OSHA

I would like to discuss the citation with an OSHA representative. This may lead to changes in the penalty amount, due date or correction deadlines (if appropriate).

Option #2 – Correct and Pay

I agree with the citation, penalties, and correction deadlines, and do not contest.

Option #3 – Contest the Citation

I do not agree with the citation, penalties, and/or correction deadlines, and would like to contest.

Questions or Concerns?

If you have any questions or concerns regarding the citation, penalties, and/or correction deadlines, please call us at (920) 734-4521.

Step 2 – Complete One Option Checklist

Please post a copy of the citation at or near the place where each violation occurred, even if you plan to contest. You can use the checklist to the right to help plan your next steps. Please do not send in your checklist.

Option #1 – Discuss with OSHA

I will complete by:



1. Call our office at (920) 734-4521 as soon as possible to schedule a meeting with an OSHA representative that must occur **within 15 working days** of receiving this citation. Bring supporting documentation of existing conditions and corrections done thus far. If necessary, you can still contest the citation after this meeting. ****This meeting does NOT extend your 15 working day deadline to contest the citation.****

___ / ___



2. Fill in and post the attached "Notice to Employees OSHA Informal Conference" after scheduling meeting.

___ / ___

Option #2 – Correct Violations and Pay Penalty

I will complete by:



1. Correct violations, then complete and mail the attached "Certification of Corrective Action Worksheet" along with the appropriate evidence of repair (e.g. photos, purchase orders, etc.) to the OSHA office listed on the first page, **postmarked within 10 calendar days after each violation's correction deadline and include any required evidence. If these documents are transmitted by means other than mailing, the date the Agency received the documents is the date of submission.**

___ / ___



2. Pay the **Total Penalty** by using one of the following methods:
****Include your Inspection Number (see first page) on the payment.****

___ / ___

Pay Online: Search "OSHA" on www.pay.gov and complete the "OSHA Penalty Payment Form." Pay by debit, credit or Automated Clearing House (ACH) **within 15 working days.** Penalties over \$25,000 must be paid by ACH and require a Transaction ID (Call 202-693-2170 to obtain one).

Pay by Check: Mail check or money order payable to "DOL-OSHA" for the Total Penalty to the OSHA office listed on the first page **within 15 working days.**

Option #3 – Contest the Citation

I will complete by:



Mail a letter of intent to legally contest to the OSHA office listed on the first page, postmarked within **15 working days.**

___ / ___

U.S. Department of Labor Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



01/04/2023

Briess Industries, Inc., dba Briess Malt & Ingredients Co
and its successors
625 Irish Road
Chilton, WI 53014

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 3000-04R) revised 2018, 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 (920) 734-4521.

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,



Robert J. Bonack
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



Citation and Notification of Penalty

To:
Briess Industries, Inc., dba Briess Malt & Ingredients
Co
and its successors
625 Irish Road
Chilton, WI 53014

Inspection Site:
605 Washington Street
Manitowoc, WI 54220

Inspection Number: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023

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 (920) 734-4521. 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 01/04/2023. The conference will be held by telephone or at the OSHA office located at 1648 Tri Park Way, Appleton, WI 54914 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1617134

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220
Issuance Date: 01/04/2023

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, 1648 Tri Park Way, Appleton, WI 54914.**

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.

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

Inspection Number: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.22(a)(3): Walking-working surfaces are maintained free of hazards such as sharp or protruding objects, loose boards, corrosion, leaks, spills, snow, and ice.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 on the upper and lower loading decks of the kiln; employees were exposed to fall hazards in the event the kiln tray they were standing on rotated while performing cleaning activities.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$8,204.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.22(c): Access and egress. The employer must provide, and ensure each employee uses, a safe means of access and egress to and from walking-working surfaces.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6; a safe means of access and egress was not provided at personnel points of access when climbing up and over the concrete walls to get in and out of the upper loading deck of the kiln, exposing employees to fall hazards between 40 and 55 inches.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 09, 2023
\$6,153.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.28(b)(1)(i): Unprotected sides and edges. (i) Except as provided elsewhere in this section, the employer must ensure that each employee on a walking-working surface with an unprotected side or edge that is 4 feet (1.2 m) or more above a lower level is protected from falling by one or more of the following:

(a) On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; in Malt House 6 at the Germ Bed Compartment #2, employees were exposed to a fall hazard of 57 inches while walking on the scalloped wall to perform cleaning activities.

(b) On or about July 6, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; on the roof level, the exhaust damper for the kiln was open at the top, exposing employees to fall hazards of 130 inches when climbing the fixed ladder to access the heat exchangers.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.28(b)(3)(iv): Each employee is protected from falling into a ladderway floor hole or ladderway platform hole by a guardrail system and toe boards erected on all exposed sides, except at the entrance to the hole, where a self-closing gate or an offset must be used.

(a) On or about August 12, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; Malt House 6 North Germ Stack; the fixed ladder used to get to the top of the germ stack for cleaning and sanitation activities did not have a self-closing gate exposing employees to fall hazards.

(b) On or about July 6, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 South Germ Stack; the fixed ladder used to get to the top of the germ stack for cleaning and sanitation activities did not have a self-closing gate exposing employees to fall hazards.

(c) On or about July 5, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; the fixed ladder used to access the heat exchanger for cleaning did not have an offset or swing gate exposing employees to fall hazards.

(d) On or about July 5, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; the fixed ladder used to access the stainless-steel slots for cleaning did not have an offset or swing gate, exposing employees to fall hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.28(b)(13)(iii): When work is performed 15 feet (4.6 m) or more from the roof edge, the employer must follow what is outlined in 29 CFR 1910.28(b)(13)(iii)[A] and [B]:

At the end of July 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, on the roof of Spirit Building; employees performed preventative maintenance on the pneumatic blower system without fall protection being utilized, exposing employees to fall hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.147(f)(1): Testing or positioning of machines, equipment or components thereof. In situations in which lockout or tagout devices must be temporarily removed from the energy isolating device and the machine or equipment energized to test or position the machine, equipment or component thereof, the following sequence of actions shall be followed as outlined in 29 CFR 1910.147(f)(1)(i) through (v):

On or about October 18, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 in Germ Bed Compartment #3; during the clearing of a jam and making adjustments, the authorized employee was not provided alternative protective measures during the testing and repositioning when another employee was activating the controls outside the germ bed compartment exposing the authorized employee to entanglement hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.147(f)(3)(ii)(D): Each authorized employee shall affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work, and shall remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6; each employee performing cleaning/shoveling activities in the upper loading deck of the kiln by the leveler did not apply a personal lockout device prior to entering the area to clean the leveler which had been buried with grain, exposing employees to struck by hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 09, 2023
\$10,256.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

Citation 1 Item 8 Type of Violation: **Serious**

29 CFR 1910.212(a)(1): Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are-barrier guards, two-hand tripping devices, electronic safety devices, etc.

(a) On or about October 18, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 Upper Deck Kiln; the horizontal screw auger was not guarded exposing employees to entanglement hazards when stepping on the cylinder, located on the side wall, to monitor the upper loading deck of the kiln being loaded.

(b) On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 in the Germ Bed Compartment #2; the in-floor auger had inadequate guards at the front of the germ bed compartment exposing employees to entanglement hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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

Inspection Number: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

Citation 1 Item 9 Type of Violation: **Serious**

29 CFR 1910.212(a)(2): General requirements for machine guards. Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6 in the Germ Bed Compartment #2; at the front of the germ bed, the horizontal auger which fed into the in-floor auger had a hinged guard which was not securely attached allowing access to the rotating auger, exposing employees to entanglement hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$10,256.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

Citation 1 Item 10 Type of Violation: **Serious**

29 CFR 1910.242(b): Compressed air used for cleaning. Compressed air shall not be used for cleaning purposes except where reduced to less than 30 p.s.i. and then only with effective chip guarding and personal protective equipment.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin; in Malt House 6 while cleaning Germ Bed Compartment #2, the employee utilized an air nozzle set to greater than 90 pounds per square inch (psi) pressure for cleaning purposes exposing employee to an embolism.

Date By Which Violation Must be Abated:
Proposed Penalty:

February 02, 2023
\$8,204.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

Citation 2 Item 1 a Type of Violation: **Repeat - Serious**

29 CFR 1910.147(c)(4)(i): Procedures shall be developed, documented and utilized for the control of potentially hazardous energy when employees are engaged in the activities covered by this section.

Note: Exception: The employer need not document the required procedure for a particular machine or equipment, when all of the following elements exist: (1) The machine or equipment has no potential for stored or residual energy or reaccumulation of stored energy after shut down which could endanger employees; (2) the machine or equipment has a single energy source which can be readily identified and isolated; (3) the isolation and locking out of that energy source will completely deenergize and deactivate the machine or equipment; (4) the machine or equipment is isolated from that energy source and locked out during servicing or maintenance; (5) a single lockout device will achieve a locker-out condition; (6) the lockout device is under the exclusive control of the authorized employee performing the servicing or maintenance; (7) the servicing or maintenance does not create hazards for other employees; and (8) the employer, in utilizing this exception, has had no accidents involving the unexpected activation or reenergization of the machine or equipment during servicing or maintenance.

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6; the employer did not develop, document, and utilize energy control procedures for the Germ Bed Compartment #2 when performing the cleaning, sanitation, and washing activities inside each of the germ bed compartments exposing employees to accidental/inadvertent restart of the equipment.

The Briess Industries, Inc. was previously cited for a violation of this occupational safety and health standard which was contained in OSHA inspection number 1282326, citation number 1, item number 3 and was affirmed as a final order on March 21, 2019, with respect to a workplace located at 625 South Irish Road in Chilton, Wisconsin.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$20,513.00

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: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

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

29 CFR 1910.147(d): The established procedure for the application of energy control (the lockout or tagout procedures) did not cover the actions listed in and was not done in sequence as required by 29 CFR 1910.147(d)(1)-(6):

On or about August 24, 2022, at an establishment located at 605 Washington Street, in Manitowoc, Wisconsin, in Malt House 6; employees were exposed to machine hazards associated with moving parts when they engaged in cleaning activities on the Germ Bed Compartment #2. The employer did not ensure that employees implemented energy control application steps or equivalent protective measures prior to allowing them to perform cleaning activities around the vertical helix augers and energized in-floor auger. The machine was not deenergized prior to the employee engaging in the servicing / maintenance activity.

As a result, the remaining applicable energy control elements, involving machine isolation [1910.147(d)(3)], lockout/tagout device application [1910.147(d)(4)], dissipation of residual energy [1910(d)(5)(i)], and verification of isolation [1910.147(d)(6)] were not implemented to protect employees from machine hazards.

The Briess Industries, Inc. was previously cited for a violation of this occupational safety and health standard, which was contained in OSHA inspection number 1388093, citation number 1 item number 1 and was affirmed as a final order on June 25, 2019, with respect to a workplace located at 625 South Irish Road in Chilton, Wisconsin.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

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: 1617134
Inspection Date(s): 08/23/2022 - 12/22/2022
Issuance Date: 01/04/2023



Citation and Notification of Penalty

Company Name: Briess Industries, Inc., dba Briess Malt & Ingredients Co
Inspection Site: 605 Washington Street, Manitowoc, WI 54220

Citation 2 Item 2 Type of Violation: **Repeat - Serious**

29 CFR 1910.147(c)(6)(i): The employer shall conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the requirements of this standard are being followed.

Periodic inspections of the energy control procedures were not conducted at least annually to ensure continuity of procedures and proper application as well as assure employees are familiar with their responsibilities.

The Briess Industries, Inc. was previously cited for a violation of this occupational safety and health standard, which was contained in OSHA inspection number 1282326, citation number 1, item number 1 and was affirmed as a final order on March 21, 2019, with respect to a workplace located at 625 South Irish Road in Chilton, Wisconsin.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$20,513.00

A handwritten signature in blue ink that reads "Robert J. Bonack".

Robert J. Bonack
Area Director

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

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.



Robert J. Bonack

Area Director

January 5, 2023

Date