

Respondent's worksite located at 509 Teague Street in Greensboro, North Carolina hereinafter referred to as "the site."

4. CSHOs properly entered into the site pursuant to notice of injury.
5. As a result of the Inspection, on October 1, 2019, Complainant issued the following Citation and Notification of Penalty:

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1a	29 CFR 1910.120(q)(1)	Immediate	\$3750.00
1b	29 CFR 1910.120(q)(6)(iii)	10/25/2019	\$Grouped
1c	29 CFR 1910.120(q)(9)(ii)	Immediate	\$Grouped
2	29 CFR 1910.1200(h)(3)(iii)	10/25/2019	\$3750.00
3a	29 CFR 1910.132(a)	Immediate	\$3750.00
3b	29 CFR 1910.132(d)(1)(i)	Immediate	\$Grouped
4	29 CFR 1910.305(b)(1)(ii)	Immediate	\$3750.00

CITATION NUMBER TWO (Nonserious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1904.39(a)(2)	Corrected	\$3750.00

6. Respondent submitted a timely Notice of Contest.
7. A Pre-Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules") and proper notice to the employees and other interested parties was made.
8. Respondent and Complainant waived the presence of a court reporter at the Pre-Hearing and the making of a transcript of the Pre-Hearing.
9. Complainant and Respondent have no objection, either procedural or otherwise, to this Pre-Hearing and both parties consent to the conduct of this Hearing by the Undersigned and to entry of this Order.
10. Respondent posted the Citation and the Pre-Hearing Order as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement period.

11. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant's Motion have been abated or will be abated by Respondent as soon as reasonably possible where a new procedure must be drafted and trained.

12. The parties agree to bear their own attorney's fees (if any), costs and other expenses that have been incurred in connection with any stage of these proceedings up to and including the filing of this Order.

13. Complainant and Respondent agree that provided the respective Motions of each party are granted (a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter; (b) this Order is a full and final resolution of the claim set out in the underlying Original Citation, as amended pursuant to Complainant's Motion; (c) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit, (d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or waiver of defenses; provided however that in any subsequent proceeding with respect to matters covered by this Order brought directly under the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "Act") by Complainant, this Order shall have the full force and effect of a final order; (e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purpose except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes; (f) the penalty for each Item designated in the Original Citation as amended pursuant to Complainant's Motion has been calculated in accordance with the standard Field Operations Manual procedure and giving consideration by Complainant to standard mitigating factors and to specific factors applicable to Respondent; and (g) there has been no employee objection to the reasonableness of any abatement period.

14. Respondent agrees to continue to use its best efforts to comply with the requirements of the Act. Further, it agrees that it will:

1. Conduct refresher training on the following topics for the following participants for North Carolina employees three times in the twelve month period following entry of this Order and submit documentation of the same:

<u>REFRESHER TRAINING TOPICS</u>	<u>PARTICIPANTS</u>
Emergency Response Plan	All managers and Maintenance employees
Spill Plan Procedure	All managers and Maintenance employees (to be conducted by third-party vendor ECOLAB)
Risk Hotline Procedure	All managers and Maintenance employees
Safe Pledge Policy, Duty to Report Injuries to Management	All Maintenance employees
Anti-Retaliation Policy for Reporting Injuries	All managers

OSHA Injury Reporting Policy	All managers
HazCom Policy and Review of Chemicals Used in the Workplace	All Maintenance employees (to be conducted by third-party vendor, ECOLAB)
PPE for Chemical Spill Cleanup	All Maintenance employees

2. Ensure that all employees hired for positions in the maintenance area in North Carolina are provided the same level of training as provided to current employees and submit documentation of the same.
3. Provide documentation of abatement actions that have already been completed or will be completed following the signing of this Order:

ABATEMENT ACTION	DESCRIPTION
National Safety Stand Down	Aramark conducted a conference call with relevant managers from across the country to discuss the spill incident and lessons learned.
Job Code Issue Resolved	Aramark identified an issue in its job code systems that resulted in Ingelheim not being identified for training on the Spill Plan Procedure (all other Maintenance employees in Greensboro had been trained on the procedure). Correcting the issue involved a substantial effort. All other gaps in training at Aramark facilities stemming from the original issue have been corrected.
Post-Incident Counseling and Training	All Greensboro managers and Maintenance employees were counseled after the spill incident, and retrained on the Spill Plan Procedure, including the need to immediately report the spill to the 1-800 Risk Hotline.
Added Signage	Although signage containing the 1-800 Risk Hotline procedure and number were already posted at the facility, after the incident additional signage was posted throughout the facility to reinforce the importance of the procedure.
Electrical Panel/Unused Opening	Corrected immediately after the inspection.

4. Provide documentation of the change to the switch from turn-key to a press button switch.

MOTIONS

Complainant's Motion

Complainant moved to make the following amendments to the Original Citation ("Complainant's Motion"):

1. Change the penalties of the Citations for a new total balance of all penalties of \$11250.00;
2. Delete citation 1 items 1a-1c, 2, 3a, and Citation 2, Item 1 and associated penalties; reclassify Citation 1, Item 4 to non-serious; add penalty of \$7500.00 to Citation 1, Item 3b;

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
3b	29 CFR 1910.132(d)(1)(i)	Immediate	\$7500.00

CITATION NUMBER ONE (Nonserious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
4	29 CFR 1910.305(b)(1)(ii)	Immediate	\$3750.00

Except as expressly set forth in Complainant's Motion, the Original Citation shall remain unmodified or amended.

Respondent did not object to Complainant's Motion.

Respondent's Motion

Respondent requested that upon the granting of Complainant's Motion that the Undersigned consider the following motion by the Respondent ("Respondent's Motion"):

1. Withdraw Respondent's Notice of Contest to all Citation and Notification of Penalties as amended pursuant to Complainant's Motion set forth above.
2. Make payment as detailed above with a single upfront payment of \$11250.00, to be paid within 90 days of the entry of this Order.
3. Respondent has completed abatements for all items.

Complainant did not object to Respondent's Motion.

FINDINGS OF FACT

Based on the Stipulations at the time of the Hearing and on the Record, the Undersigned makes the following Findings of Fact:

1. This Court has jurisdiction over the parties and the subject matter of this Hearing.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. Neither party has any objection, procedural or otherwise, to this Hearing;

4. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.

5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of the Order.

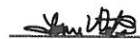
CONCLUSIONS OF LAW

The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:


1. That Complainant's Motion is hereby **GRANTED**; and,
2. That Respondent's Motion is hereby **GRANTED**; Respondent shall pay the penalty of \$11250.00 in the manner set forth in the Stipulations.

This the Apr 8, 2022 day of April, 2022.


Laura Wetsch (Apr 8, 2022 15:58 EDT)

Laura Wetsch
Hearing Examiner

CONSENTED TO:


Rory Agan (Apr 8, 2022 15:28 EDT)

Rory Agan
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629/Labor Section
Raleigh, North Carolina 27602-0629

Telephone No. (919) 716-6680

ATTORNEY FOR COMPLAINANT


Kaiser Chowdhry (Apr 8, 2022 15:06 EDT)

Kaiser H. Chowdhry
Attorney
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC, 20004-2541

Telephone No. 202-739-3000

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

KAISER H CHOWDHRY
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVE NW
WASHINGTON DC 20004-2541

By depositing same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:

RORY AGAN
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH, NC 27602-0629

By depositing a copy of the same in the United States Mail, first class, postage prepaid at Raleigh, North Carolina, and upon:

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH, NC 27699-1101

via email to carla.rose@labor.nc.gov.

THIS THE 11 DAY OF April 2022.



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27699-1101
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