

KANSAS CITY AREA OFFICE

[illegible]

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

Notice of Alleged Safety or Health Hazards

		Complaint Number	1579613
Establishment Name	TYSON FOODS, INC.		
Site Address	ONE TYSON AVENUE		
	Noel, MO 64854		
	Site Phone	417-475-3181	Site FAX 417-475-8300
Mailing Address	ONE TYSON AVENUE Noel, MO 64854		
Management Official	Jack Lund	Telephone	417-475-3181 ext 7
Type of Business			
Primary SIC	2015	Primary NAICS	311615 - Poultry Processing
HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.			
<p>1) No social distancing when entering the plant have to stand in line elbow to elbow waiting for Covid-19 screening, and PPE issuance. Also close to others when working on the line. <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>2) No access to or ability to get water, it is costly to buy a bottle from vending machine. <input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>3) People throwing up in the drains and will continue working.</p>			

Source 1			
<i>Has this condition been brought to the attention of:</i>			
<i>Please indicate Your Desire to Reveal Source:</i>		Ex 7(c), 7(d)	
<i>The Undersigned believes that a violation of an Occupational Safety or Health Standard exists which is a job safety or health hazard at the establishment named on this form</i>		(Mark "X" in ONE) <input type="checkbox"/> Employee <input type="checkbox"/> Federal Safety and Health Committee <input type="checkbox"/> Representative of Employees <input type="checkbox"/> Other (specify)	
<i>Complainant Name</i>	Ex 7(c), 7(d)	<i>Telephone</i>	Ex 7(c), 7(d)
<i>Complainant Address</i>		Ex 7(c), 7(d)	
<i>Complainant E-mail Address</i>		Ex 7(c), 7(d)	
<i>Send UPA Results?</i>	Yes	<i>If no UPA results sent, why?</i>	
<i>Signature</i>		<i>Date</i>	

If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:

<i>Organization Name:</i>		<i>Your Title:</i>	
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OFFICIAL USE ONLY:

Reporting ID	0728500
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Receipt Information	Received By Ex 7(c), 7(d)	Send OSHA-7? Yes No	Date: 04/27/2020 Time: 08:30 AM	CSHO Assigned Ex 7(c)	Supervisor(s) Assigned X0522
Receipt Type	Online	Electronic Complaint Number	32027292		

Industry & Ownership	Primary NAICS	311615 - Poultry Processing	Ownership	Private Sector
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Complaint Evaluation	Evaluated By		Subject	Severity
	Is this a Valid Complaint?	Yes		
	Formality	Nonformal	Safety	
	Migrant Farmworker Camp? (Mark X if applicable)		Health	Serious
			Discrimination	No

Complaint Actions					
Action Date	Action Type	Date Response Due	Communication Method	Type of Letter/Reason	Other – Status
04/28/2020	Valid = Y				
04/28/2020	Contact with Employer	05/05/2020	Phone Discussion	Other	left VM
04/28/2020	Do Inspection = N			phone and Fax	

Complaint Responses				
Date Response Received	Type Response Received	Evaluation	Evaluated By	Other

Transfer to (Name)		Transfer Date	
Transfer to Category			

Strategic Initiatives	
National Emphasis	

Local/State Emphasis	
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Additional Codes			
Type	ID	Value	Description
N	16	COVID-19	Response activities related to the COVID-19 Coronavirus

Close Complaint	
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Comments:

U.S. Department of Labor

Occupational Safety and Health Administration
Kansas City Area Office
2300 Main Street
Suite 168
Kansas City, MO 64108



April 28, 2020

Ryan Schenkel
Tyson Foods, Inc.
One Tyson Avenue
Noel, MO 64854

RE: OSHA Complaint No. 1579613

Dear Mr. Schenkel:

On April 27, 2020, the Occupational Safety and Health Administration (OSHA) received a notice of alleged workplace hazard(s) at your worksite at:

One Tyson Avenue
Noel, MO 64854

We notified you by telephone of these alleged hazards on April 28, 2020. The specific nature of the alleged hazards is as follows:

- 1) No social distancing when entering the plant have to stand in line elbow to elbow waiting for Covid-19 screening, and PPE issuance. Also close to others when working on the line.
- 2) No access to or ability to get water, it is costly to buy a bottle from vending machine.
- 3) People throwing up in the drains and will continue working.

We have not determined whether the hazards, as alleged, exist at your workplace, and we do not intend to conduct an inspection at this time. However, because allegations of violations and/or hazards have been made, we request that you immediately investigate the alleged conditions and make any necessary corrections or modifications. Please advise me in writing, no later than **May 6, 2020**, of the results of your investigation. You must provide supporting documentation of your findings. This includes any applicable measurements or monitoring results; photographs/video that you believe would be helpful; and a description of any corrective action you have taken or are in the process of taking, including documentation of the corrected condition. Please feel free to contact the office at (816) 483-9531 if you have any questions or concerns.

This letter is not a citation or a notification of proposed penalty which, according to the Occupational Safety and Health Act, may be issued only after an inspection or investigation of the workplace. It is our goal to assure that hazards are promptly identified and eliminated. Please take immediate corrective action where needed. **If we do not receive a response from you by May 6, 2020 indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will be conducted.** An inspection may include a review of the following: injury and illness records, hazard communication, personal protective equipment, emergency action or response, bloodborne pathogens, confined space entry, lockout/tagout, and related safety and health issues.

Please also be aware that OSHA conducts random inspections to verify that corrective actions asserted by the employer have actually been taken.

If you need assistance in resolving the issues alleged in this complaint, you may contact the OSHA on-site consultation service. This program offers free and confidential assistance to small and medium-sized businesses in all states across the country, with priority given to high-hazard worksites. If necessary, a consultant will visit your workplace and assess the validity of the complaint item(s). In addition, you will be provided with methods of correcting the hazard, where applicable. To discuss or request these services, contact the consultation project in your respective state. The addresses and telephone numbers may be found by entering your state in the form at the OSHA Consultation Directory website:

http://www.osha.gov/dcsp/smallbusiness/consult_directory.html

You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees, and to return a copy of the signed Certificate of Posting (Attachment A) to this office. In addition, you are requested to provide a copy of this letter and your response to a representative of any recognized employee union or safety committee that exist at your facility. Failure to do this may result in an on-site inspection. The complainant has been furnished a copy of this letter and will be advised of your response. Section 11(c) of the Occupational Safety and Health Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.

If you have any questions regarding this matter, please contact our office. The contact information is listed on the first page of this document. Your interest in the safety and health of your employees is appreciated.

Sincerely,

Karena Lorek
Area Director

Attachment A

**CERTIFICATE OF POSTING
OSHA NOTIFICATION OF ALLEGED HAZARD(S)**

Employer Name: Tyson Foods, Inc.
Complaint Number: 1579613

Date of Posting: _____

Date Copy Given to an Employee Representative: _____

On behalf of the employer, I certify that, on **[FILL IN DATE]**, a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) was posted in a place where it is readily accessible for review by all employees, or near such location where the violation occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) days or until the hazardous conditions referenced in the letter are corrected.

Signature

Title

Employer/Establishment name

U.S. Department of Labor

Occupational Safety and Health Administration

Kansas City Area Office

2300 Main Street, Suite 168

Kansas City, MO 64108

Phone: (816) 483-9531 Fax: (816) 483-9724

<http://www.osha.gov>



April 28, 2020

Tyson Foods, Inc.
One Tyson Avenue
Noel MO 64854
UPA # **1570613**

Dear Mr.Schenlel:

In addition to the information already requested as part of the OSHA Complaint the Occupational Safety and Health Administration requires copies of the following information and documents to complete our investigation:

1. Tax I.D. number for the Facility.
2. Has your facility had any employees who were suspected or confirmed to have COVID-19 in the last month?
3. Are your employees required to work with, or around, suspect or confirmed COVID-19 employees? If so, when and in what capacity?
4. Has your facility had any visitors, clients or customers who were suspected or confirmed to have COVID-19 in the last month?
5. Are employees required to work with, or around, suspect or confirmed COVID-19 visitors, clients or customers? If so, when and in what capacity?
6. Did the facility perform a risk assessment regarding COVID-19 exposure of its employees? If so attach or describe.
7. Was this risk assessment shared with the employees? If so any records?
8. Was the risk assessment implemented? Describe how.
9. What guidance did the facility utilize to protect employees against potential COVID-19 exposure?
10. Were there any engineering controls in place regarding COVID-19 exposure? Please describe.
11. Were there any administrative controls in place regarding COVID-19 exposure? Please describe.
12. What PPE is provided for employees in relation to COVID-19 exposure?

13. What PPE is actually used by employees exposed to COVID-19? Describe PPE and what activities/ procedures it is used for.
14. Provide a copy of any written work rules, policies and procedures related to employees' activities as they relate to COVID-19 exposure. If no written policies, then describe verbal policies, if any.
15. Were employees trained in these procedures?
16. Provide the sanitation schedule and description for the facility as it relates to COVID-19.
17. Provide a copy of Safety Data Sheets (SDS's) for any cleaning/ sanitizing chemicals utilized.
18. Has there been any change in workplace procedures, controls, PPE selection/ use/ maintenance or training since the incident? If so, what are they?
19. What are the nationalities of affected workers?
20. Do you have a union? If yes please provide all contact information.
21. What is the number of confirmed cases? What are the # of suspected unconfirmed cases?

We request that you provide these documents electronically to our office by end of business day [DATE]. Please contact Compliance Safety and Health Officer [CSHO NAME AND E-MAIL ADDRESS] if you have any questions.

Sincerely,

Area Director

Karena Lorek
Area Director



May 6, 2020

Occupational Safety and Health Administration
Kansas City Area Office
2300 Main Street
Suite 168
Kansas City, MO 64108
Attention: Karena Lorek

RE: OSHA Complaint #1579613

Dear Ms. Lorek:

This letter is in response to the alleged workplace hazards that our Noel, Missouri facility received from your office on April 29, 2020. We are confident that the Noel facility has responded promptly and appropriately to this complaint. What follows is a detailed response to each allegation in the complaint.

1) No social distancing when entering the plant have to stand in line elbow to elbow waiting for Covid-19 screening, and PPE issuance. Also close to others when working on the line.

The Noel facility has taken numerous actions and proactive measures to continually improve social distancing inside and outside of the facility. The plant has installed an Infrared (IR) body scanner at the entrance of the plant to more precisely monitor the body temperatures of all team members entering the plant. Any team member who has an elevated temperature will be immediately taken to Health Services and sent home. While issuing PPE, markers are on the floor which serves as a guide to aid team members in maintaining 6-foot social distancing. We have staggered start times to cut down on the amount of team members in the hallway. We have established a team of Supervisors and Managers to act as Social Distancing Monitors throughout the day. We have urged our team members to engage in social distancing during work, outside of work, on break, and during meal periods. Please refer to UPA # 1570613 response letter to see the proactive approach our facility has taken to protect our team members.

2) No access to or ability to get water, it is costly to buy a bottle from the vending machine.

The Noel facility team members were never without water. We did secure the drinking fountains due to possible virus transmission point. At that time, we had bottled water available in vending machines, Human Resources, and water on tap. The water fountains were secured prior to installing touchless water bottle fillers with disposable cups.

3) People throwing up in drains and will continue working.

Upon investigation, we did have one team member that became sick on the floor. The team member was immediately taken to Health Services and sent home. The team member was instructed to follow up with their doctor prior to returning to work. At no time did this team member continue to work nor do we allow any team members to work sick. Moreover, the area was thoroughly cleaned and sanitized.

If you should have any further questions or require other information regarding this complaint, please contact me at (417) 475-8449.

Thank you,

A handwritten signature in black ink, appearing to read 'Nathan McKay'.

Nathan McKay
Complex Manager

Tyson Chicken, Inc.
1 Tyson Ave. Noel, Mo. 64854



May 6, 2020

Occupational Safety and Health Administration

Kansas City Area Office
2300 Main Street, Suite 168
Kansas City, MO 64108
Attention: Karena Lorek

RE: RRI Complaint #1570613

Dear Ms. Lorek

This letter is in response to the additional information requested in the alleged workplace hazard OSHA Complaint No. 1579613 that our Noel, Missouri facility received from your office on April 29, 2020.

1. Tax I.D. number for the Facility.

Ex 4

2. Has your facility had any employees who were suspected or confirmed to have COVID-19 in the last month?

No.

3. Are your employees required to work with, or around, suspect or confirmed COVID-19 employees? If so, when and in what capacity?

No

4. Has your facility had any visitors, clients or customers who were suspected or confirmed to have COVID-19 in the last month?

No

5. Are employees required to work with, or around, suspect or confirmed COVID-19 visitors, clients or customers? If so, when and in what capacity?

No

6. Did the facility perform a risk assessment regarding COVID-19 exposure of its employees? If so attach or describe.

Yes. We followed the CDC Interim Guidance for Businesses and Employers to Plan and Respond to COVID-19 (2.20), OSHA Guidance on Preparing Workplaces for COVID-19 (3.2020), OSHA COVID-19 Guidance for the Manufacturing Industry & Workforce (04.20), and all other relevant CDC and OSHA guidance and OSHA regulations. We are now integrating the recent OSHA/CDC Guidance for Meat and Poultry Processing Workers and Employers (4.25.20). Tyson has created enterprise guidance and policies relating to COVID-19 based on the above reference materials. We daily review and respond to OSHA/ CDC changing guidance.



OSHA's guidance defines the risk level for employees based on the presence of certain factors. Since our team members have the chance to be within close contact with one another, we implemented the following practices OSHA recommends for such employees:

Implemented Illness prevention measures

Our facility trained team members about illness prevention, such as hand hygiene and cough etiquette, provided supplies to enable such good hygiene (such as soap, hand sanitizer, etc.). Education efforts about COVID-19 are ongoing and include postings and other information throughout the facility in numerous different languages.

Enhanced environmental cleaning efforts

As a highly regulated food production facility, we follow Good Manufacturing Practices in food production and storage areas, including daily comprehensive sanitation. In response to COVID-19, we intensified daily cleaning and sanitation efforts in all common areas and frequently touched surfaces, particularly in common areas like restrooms, locker rooms, cafeterias, etc. In addition, the facility began weekly fogging of common areas and commonly touched surfaces.

Actively encouraged sick team members to stay home

We encouraged all sick team members to self-identify and stay home by educating them about the coronavirus, relaxing Tyson attendance policy for sick team members and improving benefits for sick team members. By mid-March, Tyson suspended its attendance policies for absences relating to COVID-19, including childcare issues. Tyson improved its benefits programs in several ways including waiving its waiting period for short-term disability payments. Tyson has recently increased its short-term-disability payout to 90% of the team member's regular pay.

Isolated sick team members from work

We require team members with fever or other symptoms of COVID-19 to be sent home immediately and not return to work until well. Tyson purchased thousands of thermometers and supplies and instituted training and guidance at each facility to begin taking the temperatures of anyone entering any Tyson facility. We met with our team members at the Noel facility to describe and discuss our new policies regarding temperature checking so they would know what to expect. We implemented temperature checking of everyone entering the Noel facility in March. Anyone with a temperature of 100.4 or greater is sent home with detailed instructions about calling their physicians and remaining out of work.

From the start, Tyson has followed the ever-changing CDC and OSHA guidance and risk assessments to determine which team members to isolate from the workplace. The Noel facility has worked closely with state and local health departments to respond quickly not only to isolate team members with positive COVID-19 tests from the plant, but also team members who have symptoms clinically consistent with COVID-19. We also have conducted our own investigation to identify the close contacts (less than six feet) of any such team members and continue to follow CDC guidance regarding those close contact team members. Finally, we follow CDC guidance about when previously ill team members and asymptomatic positive team members may return to work.



Implemented Engineering and Administrative Controls

By the end of March and throughout April, we continued to enhance our preventative measures and implemented both engineering and administrative controls.

Engineering Controls include:

- Barriers between team members on the production floor where 6 feet distancing is not possible.
- Lexan barriers added to break room tables.
- Wall mounted hand sanitizers added throughout the facility. (There were already numerous hand sanitizing and washing stations throughout the facility as a food production facility)
- Thermal imaging scanner for temperature taking.
- Tent erected for outside additional break room.

Administrative controls include:

- Surgical-style face masks required. Tyson aggressively sourced face coverings to provide to team members in a further attempt mitigate the spread of the virus., long before they were recommended by the CDC. On Monday April 6th, 2020 the Noel facility received the first shipment of 10,000 surgical masks which were immediately made available to team members. By Monday, April 13, 2020, the Noel facility had received sufficient supply and were **requiring** every team member to wear a face covering to help decrease the spread of the disease
- Face shield for management team members monitoring the temperature scanner.
- Adding social distancing cues in certain areas
- Appointing social distancing monitors
- Where social distancing or barriers are not possible, face shields are required in addition to the surgical style masks.
- Education and training described above
- Enhanced sanitation described above
- Screening and monitoring team members
- Identifying and Isolating sick team members and addressing their return to work
- Staggered break times.
- Having Team Members going to the production floor earlier to create more space in the hallways.
- Social distancing stickers put down in cafeteria kitchen as reference points.

7. Was this risk assessment shared with the employees? If so any records?

Yes. Team members were educated verbally and through written materials about COVID-19, illness prevention measures and the various prevention measures and policies adopted.

8. Was the risk assessment implemented? Describe how.

The response to the risk assessment was implemented. See #6 above.



9. What guidance did the facility utilize to protect employees against potential COVID-19 exposure?

We followed the CDC Interim Guidance for Businesses and Employers to Plan and Respond to COVID-19 (2.20), OSHA Guidance on Preparing Workplaces for COVID-19 (3.2020), OSHA COVID-19 Guidance for the Manufacturing Industry & Workforce (04.20), and all other relevant CDC and OSHA guidance and OSHA regulations. We are now integrating the recent OSHA/CDC Guidance for Meat and Poultry Processing Workers and Employers (4.25.20). Tyson has created enterprise guidance and policies relating to COVID-19 based on the above reference materials. We daily review and respond to OSHA/ CDC changing guidance.

10. Were there any engineering controls in place regarding COVID-19 exposure? Please describe.

Yes, there are. See #6 above. They include: Thermal imaging scanner for temperature taking; tent erected for outside additional break room; lexan barriers at all break room tables; barriers between Team Members working on the production floor; and wall cut back at entrance to provide more room between entering and exiting.

11. Were there any administrative controls in place regarding COVID-19 exposure? Please describe.

Yes, there are. See #6 above. Surgical masks for all Team Members. Face shields for Management Team Members monitoring the temperature scanner. Staggered break times; having Team Members going to the production floor earlier to create more space in the hallways; management Team monitoring break rooms and hallways for proper distancing and mask wearing; social distancing stickers put down in cafeteria kitchen as reference points.

12. What PPE is provided for employees in relation to COVID-19 exposure?

Our understanding from federal OSHA and the CDC is that surgical-style masks and face shields are “source control” and NOT technically PPE. However, those surgical style masks are an important strategy in our mitigation efforts for COVID-19. We require masks for everyone in the facility and for the entirety of their time in the facility, except when eating /drinking.

We also understand that we were required to reserve the supply of surgical masks and N-95 respirators for healthcare providers and emergency personnel.

13. What PPE is actually used by employees exposed to COVID-19? Describe PPE and what activities/ procedures it is used for.

See #6,11 and 12.

14. Provide a copy of any written work rules, policies and procedures related to employees’ activities as they relate to COVID-19 exposure. If no written policies, then describe verbal policies, if any.

We have attached many of our policies. The policies called “Tyson COVID-19 Guidance”, and “Addendum A.... “were among the first policies in effect (there was an earlier version of



Addendum A). Those documents have largely been replaced or superseded. In addition, the policy called "Food Production and Storage Area Face Covering Guidance" was replaced by "Face Covering Guidance" because of the ever-changing CDC position on masks and face coverings. The remaining documents attached are current policies in place. As you know, CDC and OSHA guidance around COVID-19 has been rapidly and constantly changing. Tyson has responded to the ever-changing guidance to update its internal policies.

15. Were employees trained in these procedures? Yes.

16. Provide the sanitation schedule and description for the facility as it relates to COVID-19.

As a highly regulated food production facility, we follow Good Manufacturing Practices in food production and storage areas, including daily comprehensive sanitation. In response to COVID-19, we intensified daily cleaning and sanitation efforts in all common areas and frequently touched surfaces, particularly in common areas like restrooms, locker rooms, cafeterias, etc. These "daily" efforts continue throughout the day every day. In addition, the facility began weekly fogging of common areas and commonly touched surfaces.

17. Provide a copy of Safety Data Sheets (SDS's) for any cleaning/ sanitizing chemicals utilized.

We have attached the SDS for the chemical used as part of the enhanced cleaning for COVID-19 described above.

18. Has there been any change in workplace procedures, controls, PPE selection/ use/ maintenance or training since the incident? If so, what are they?

Yes, see all answers above.

19. What are the nationalities of affected workers?

White, Black, Hispanic, Hawaiian or Pacific Islander, Asian, American Indian

20. Do you have a union? If yes please provide all contact information.

Yes. UFCW Local 2008. Ex 7(c), 7(d)

21. What is the number of confirmed cases? What are the # of suspected unconfirmed cases?

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If you should have any further questions or require other information regarding this complaint, please contact me at (417) 475-8449.

Thank you,

Nathan McKay
Complex Manager
Noel Complex
Tyson Raw Poultry Division

Tyson Noel, MO

Surgical Masks

Non-responsive record

Front Entrance

Non-responsive record

IR Temperature Scanner

Non-responsive record

Face Shield

Non-responsive record

COVID-19 Information Boards

Non-responsive record

PPE/Supply Line

Non-responsive record

PPE/Supply Window

Non-responsive record

PPE/Supply Line

Non-responsive record

Touchless Water Bottle Fillers

Non-responsive record

Break Room Table Barriers

Non-responsive record

Additional Break Room

Non-responsive record

Additional Break Room Table Barriers

Non-responsive record

Additional Break Room Table Barriers

Non-responsive record

U.S. Department of Labor

Occupational Safety and Health Administration
Kansas City Area Office
2300 Main Street, Suite 168
Kansas City, MO 64108



May 13, 2020

Ex 7(c), 7(d)

RE: OSHA Complaint No. 1579613

Dear Ex 7(c),
7(d)

Tyson Foods, Inc. has advised me that the hazards you complained about have been investigated. A copy of the employer's letter and documentation are enclosed.

With this information, OSHA feels the case can be closed on the grounds that the hazardous condition(s) no longer exist. If you do not agree that the hazards you complained about have been satisfactorily abated, please contact us within ten (10) business days of the date of this notification. If we do not hear from you within that time, we will assume that the hazards have been corrected and will take no further action with respect to this case.

Section 11(c) of the Occupational Safety and Health Act protects employees from being discriminated against because of their involvement in protected activities related to safety and health. If you believe you are being treated differently or action is being taken against you because of your safety or health activity, you may file a complaint with OSHA. You should file this complaint as soon as possible, because OSHA normally can accept only those complaints filed within 30 days of the alleged discriminatory action.

Please feel free to contact the office at (816) 483-9531 if you have any questions or concerns.

Your action on behalf of safety and health in the workplace is sincerely appreciated.

Sincerely,

Karena Lorek
Area Director

Enclosure(s)

U.S. Department of Labor

Occupational Safety and Health Administration
Kansas City Area Office
2300 Main Street, Suite 168
Kansas City, MO 64108



May 13, 2020

Ryan Schenkel
Tyson Foods, Inc.
One Tyson Avenue
Noel, MO 64854

RE: OSHA Complaint No. 1579613

Dear Mr. Schenkel:

This is to advise you that based on the information that you have provided to this office, the complaint referenced above will be officially closed unless the information is disputed by the complainant.

Please feel free to contact me at (816) 483-9531 if you have any questions or concerns, or visit www.osha.gov, which contains OSHA's standards, letters of interpretation, publications, and other information related to occupational safety and health. Thank you for your cooperation with this inquiry and your continued interest in safety and health.

Sincerely,

Karena Lorek
Area Director