

U.S. Department of Labor
Occupational Safety and Health Administration
2183 Northlake Parkway
Building 7, Suite 110
Tucker, GA 30084
Phone: (770)493-6644 FAX: (770)493-7725



Citation and Notification of Penalty

To:
KD Acquisition I, LLC dba Coleman Natural Foods
and its successors
1445 Josh Pirkle Rd
Braselton, GA 30517

Inspection Number: 315738872
Inspection Date(s): 09/19/2011-01/06/2012
Issuance Date: 03/14/2012

Inspection Site:
1155 Candler Rd
Gainesville, GA 30504

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. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form.

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. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

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.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the 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 page 4 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.

Notification of Corrective Action - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful and Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification.

Where the citation is classified as **Serious** and the citations state that the abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All Abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on front page); 3) the citation and the citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The Law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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 your inspection will be available 30 calendar days after the Citation Issuance Date. 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.

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.



IN THE EVENT THAT YOU REQUEST AN INFORMAL CONFERENCE
PLEASE FILL OUT AND POST THIS NOTICE

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/14/2012. The conference will be held at the OSHA office located at 2183 Northlake Parkway, Building 7, Suite 110, Tucker, GA, 30084 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to anhydrous ammonia:

On or about 1/4/2012, at the KD 4 facility, the employer did not ensure Engine Room 4 was built to specifications listed in ANSI/IIAR 2-2008. Deficiencies include but are not limited to:

- A.) Machine room 4 was not equipped with at least one Ammonia detector connected to a supervised alarm.
- B.) Machine room 4 does not have tight fitting doors equipped with panic type hardware.
- C.) Machine room 4 does not have supplied inlet air to replace exhausted air.

Among other methods, one feasible and acceptable means of abatement is to have a Machine Room designed and constructed that meets the requirements of ANSI/IIAR 2-2008: American National Standard for Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigerating Systems, Section 13 "Machinery Room Design".

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	05/21/2012
Proposed Penalty:	\$ 7000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.23 (c)(1): Standard guardrails were not provided for every open-sided floor or platform 4 feet or more above adjacent floor or ground level.

On or about 9/19/2011, at the KD4 facility, employees used stairs to and from the boiler room that were located 45" from the unprotected roof edge.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 7000.00

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

29 CFR 1910.120(q)(6)(iii): Employees assigned duties at the Hazardous Materials Technician level have not received at least 24 hours of training equal to the first responder operations level and in addition have competency in the areas specified in sections 1910.120(q)(6)(iii)(A) through (I) and were not certified:

On or about 1/6/2012, at the KD 4 facility, employees were not provided Hazardous Materials Technician training when they were designated as members of the Emergency Response Team at the facility responsible to reacting to emergency events involving Anhydrous Ammonia.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	04/30/2012
Proposed Penalty:	\$ 5500.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

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

29 CFR 1910.147(c)(4)(ii)(B): The procedures did not clearly and specifically outline the specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy:

On or about 9/19/2011, in the oven room, the specific written LOTO procedure for equipment including but not limited to the Progrill did not include all energy sources such as air on the LOTO procedure and did not state the specific procedural steps for shutting down, isolating, and blocking energy sources.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	04/30/2012
Proposed Penalty:	\$ 7000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.147(c)(6)(i): The employer did not conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the requirement of this standard were being followed:

On or about 9/19/11, at the KD4 facility, the employer did not conduct a periodic inspection on an at least annual basis for LOTO procedures. The last periodic inspection of energy control procedures was conducted in 8/2009.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated: 04/30/2012

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.147(d)(4)(i): Lock out or tagout devices were not affixed to each energy isolating device by authorized employees:

On or about 9/19/2011, at the KD4 facility, employees perform maintenance work without affixing locks on the electrical disconnect, pneumatic valve and thermal fluid gate valve for the Progrill equipment while performing that work.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	04/30/2012
Proposed Penalty:	\$ 7000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.303(b)(1)(iv): Electric equipment was not free from recognized hazards that are likely to cause death or serious physical harm to employees, in that the safety of the electrical insulation was not ensured:

On or about 9/19/2011, at the KD4 facility, employees using a roof top hoist to raise and lower motors and engines were exposed to electrical shock hazards as the cord powering the hoist was repaired with electrical tape only.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	04/09/2012
Proposed Penalty:	\$ 3300.00

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

29 CFR 1910.303(g)(2)(i): Live parts of electric equipment operating at 50 volts or more were not guarded against accidental contact by approved cabinets or other forms of approved enclosures, or other means listed under this provision:

On or about 9/19/2011, at the KD4 facility, employees were exposed to 480 volt electrical hazards as maintenance employees were required to access a panel that was not dead front so as to reset relays.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 7000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.305(j)(2)(iv): A receptacle installed in a wet or damp location was not suitable for the location:

On or about 9/19/2011, at the KD4 facility in the ProGrill room, electrical receptacles installed in wet locations were not maintained adequately for their location and were missing covers and showed damage to the outlets.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 3300.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

Citation 2 Item 1 Type of Violation: Repeat

29 CFR 1910.147(c)(7)(i)(A): Each authorized employee(s) did not receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control:

On or about 9/19/2011, the employer failed to ensure each authorized employee received training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control. The floor supervisors required production workers to assist with belt adjustments on the Progrill equipment. The Progrill production workers were not trained as authorized persons.

KD Acquisition I, LLC dba Coleman Natural Foods was previously cited as a repeat citation for a violation of this OSHA standard or it's equivalent standard 29 1910.147(c)(7)(i)(A) which was contained in OSHA inspection #309622280, citation 2, item 1, issued on 7/17/2007 and became a final order on 8/10/2007.

In accordance with 29 CFR 1903.19(d), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET), and in addition, documentation demonstrating that abatement is complete must be included with your certification. This documentation may include, but is not limited to, evidence of the purchase or repair of the equipment, photographic or video evidence of abatement, or other written records.

Date By Which Violation Must be Abated:	04/30/2012
Proposed Penalty:	\$ 70000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.212(a)(1): Machine guarding was not provided to protect operator(s) and other employees from hazard(s) created by point of operation, ingoing nip points, rotating parts, flying chips, and sparks:

On or about 9/19/2011, at the KD4 facility, employees are exposed to ingoing nip points at the conveyor belt as guards on the Progrill machine are routinely left off during operation.

KD Acquisition I, LLC dba Coleman Natural Foods was previously cited for a violation of this OSHA standard or it's equivalent standard 29 1910.212(a)(1) which was contained in OSHA inspection #309622280, citation 2, item 3, issued on 7/17/2007 and became a final order on 8/10/2007.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 70000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504

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

29 CFR 1910.146(c)(2): The employer did not 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:

On or about 9/19/2011, at the KD 4 facility, the employer did not post signs on air handling units located on the roof to indicate they were Permit Required Confined Spaces.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 0.00

William C. Fulcher
Area Director

See pages 1 through 5 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
2183 Northlake Parkway
Building 7, Suite 110
Tucker, GA 30084
Phone: (770)493-6644 FAX: 770-493-7725



INVOICE/ DEBT COLLECTION NOTICE

Company Name: KD Acquisition I, LLC dba Coleman Natural Foods
Inspection Site: 1155 Candler Rd, Gainesville, GA 30504
Issuance Date: 03/14/2012

Summary of Penalties for Inspection Number 315738872

Citation 1, Serious	= \$	47100.00
Citation 2, Repeat	= \$	140000.00
Citation 3, Other	= \$	0.00
TOTAL PROPOSED PENALTIES	= \$	187100.00

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.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

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 4%. 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.



William C. Fulcher
Area Director

03/14/2012

Date

U.S. Department of Labor

Occupational Safety and Health Administration
Atlanta East Area Office
LaVista Perimeter Office Park
Building 7, Suite 110
2183 Northlake Parkway
Tucker, Georgia 30084
(770) 493-6644



March 14, 2012

KD Acquisition I, LLC dba Kings Delight/Coleman Natural Foods
Attn: Charles Fluit
1445 Josh Pirkle Road
Braselton, GA 30517

Dear Mr. Fluit:

An inspection of your workplace at 1155 Candler Road in Gainesville, Georgia on 09/19/2011 through 01/06/2012 disclosed the following hazards:

1. Inspections of the wire ropes and hooks on hoists used at the facility are not performed.
2. The emergency eyewash/shower located outside of the Ammonia Engine Room on the roof was not in working order.

It is not considered appropriate at this time to issue citations for the hazards above. However, in the interest of work place safety and health, I recommend that you take the following steps to eliminate or reduce your employees' exposure to the hazards described above:

1. Perform documented monthly inspections for wire rope and hoist inspections for hoists used at the facility.
2. Ensure the eyewash/shower located outside the Ammonia Engine Room on the roof is protected from freezing and maintained in working order.

Your support in protecting the health and safety of your employees is necessary and appreciated. If you have any questions please do not hesitate to contact me.

Sincerely,

William C. Fulcher
Area Director

U.S. Department of Labor

*Occupational Safety and Health Administration
Atlanta East Area Office
2183 Northlake Parkway
Building 7, Suite 110
Tucker, Georgia 30084
(770) 493-4466, Fax (770) 493-7725
<http://www.osha.gov>*



Mr. Charles Fluit, Safety Manager
KD Acquisition I, LLC
1445 Josh Pirkle Rd.
Braselton, GA 30517

Dear Mr. Fluit:

Recent inspections of two of your workplaces disclosed the following hazards:

- 1) Plant – The Emergency Response Plan did not clearly and unequivocally specify the contact information for the response personnel, the authorized personnel, the required training, and the authorized tasks during an emergency.
- 2) Refrigeration Room – Process valves which required operation during an emergency were not clearly identified with labels and/or tags, as needed for elimination of human errors which could complicate the emergency response.

Since no OSHA standard applies and it is not considered appropriate at this time to invoke Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act, no citation will be issued for these hazards.

In the interest of work place safety and health, however, I recommend that you take the following steps voluntarily to eliminate or reduce your employees' exposure to the hazards described above:

- 1) Review the Emergency Response Plan and ensure that the contact information for the local response personnel is accurate and clearly identified.
- 2) Specify the contacts for assistance which belong to other distant plants, and their participation/hierarchy during an emergency.
- 3) Clearly describe in the plan the authorized roles, tasks, training, protective equipment and limitations to the activity of the response personnel.
- 4) Identify with labels or placards the process valves to be operated during an emergency.
- 5) Include in the plan the process valves/equipment to be operated as specific emergency actions.
- 6) Inform and coordinate with the Fire Department and/or other participating authorities the particular valves/process equipment to be operated during an emergency.
- 7) Ensure the unrestricted access of authorized personnel to the refrigeration facility.

Sincerely,

A handwritten signature in black ink, appearing to read "William C. Fulcher", is written over the word "Sincerely,".

William C. Fulcher
Area Director