

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 agreement which resolves this matter without litigation or contest.

APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board in writing, or by telephone, or online via the Board's OASIS system, within 15 working days from the date of receipt of a Citation.

After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, or online via the Board's OASIS system, for each contested Citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available to print online at: <https://www.dir.ca.gov/oshab/appealform.pdf>. You may also file the appeal through the Board's online OASIS system at: <https://www.dir.ca.gov/oshab/>. Hard copies can also be picked up from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone: (916) 274-5751 or (877) 252-1987
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing. In addition, please send a copy of Page 1 of this Citation and Notification of Penalty, the cover sheet.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

Important: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, at (916) 274-5751 or (877) 252-1987.

PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying electronically, please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, inspection number, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to: www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html to access the secure payment processing site. **Additionally, you must also mail the Penalty Remittance Form to the address below.**

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations
Cal/OSHA Penalties
P. O. Box 516547
Los Angeles, CA 90051-0595

CAL/OSHA does not agree to any restrictions, 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.

NOTIFICATION OF CORRECTIVE ACTION

For violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the district office listed on the Citation by submitting the Cal/OSHA 160 form with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for general violations has already been reduced by 50% on the presumption that the employer will correct the violations by the abatement date. The adjusted penalty for serious violations, if any, has already been reduced by 50% because abatement of those violations has been completed.

Note: Return the Cal/OSHA 160 form to the district office listed on the Citation and as shown below:

Division of Occupational Safety and Health
Long Beach District Office
3939 Atlantic Avenue, Suite 212
Long Beach, CA 90807
Telephone: (562) 506-0810
Fax: (562) 426-8340

EMPLOYEE RIGHTS

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

Employee Appeals - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a district office of the Division.

Employees Participation in Informal Conference - Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY - Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to provide training in the safe use of ladders to an employee that used a ladder improperly while accessing the auger catwalk in the high care room.

Date By Which Violation Must be Abated:
Proposed Penalty:

July 05, 2019
\$560.00

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Long Beach District Office
3939 Atlantic Avenue, Suite 212
Long Beach, CA 90807
Phone: (562) 506-0810 Fax: (562) 426-8340

Inspection #: 1368393
Inspection Dates: 12/27/2018 - 05/29/2019
Issuance Date: 05/31/2019
CSHO ID: B4064
Optional Report #: 19-020



Citation and Notification of Penalty

Company Name: SFFI Company, Inc.
Establishment DBA: Simply Fresh Fruit
and its successors
Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

3314(g): T8CCR §3314(g). The Control of Hazardous Energy for the Cleaning, Repairing, Servicing, Setting-Up, and Adjusting Operations of Prime Movers, Machinery and Equipment, Including Lockout/Tagout.

(g) Hazardous Energy Control Procedures. A hazardous energy control procedure shall be developed and utilized by the employer when employees are engaged in the cleaning, repairing, servicing, setting-up or adjusting of prime movers, machinery and equipment.

(1) The procedure shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance, including but not limited to, the following:

(A) A statement of the intended use of the procedure;

(B) The procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy;

(C) The procedural steps for the placement, removal and transfer of lockout devices and tagout devices and responsibilities; and,

(D) The requirements for testing a machine or equipment, to determine and verify the effectiveness of lockout devices, tagout devices and other hazardous energy control devices.

(2) The employer's hazardous energy control procedures shall be documented in writing.

(A) The employer's hazardous energy control procedure shall include separate procedural steps for the safe lockout/tagout of each machine or piece of equipment affected by the hazardous energy control procedure.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to develop and utilize an effective hazardous energy control procedure for their employees engaged in the cleaning and servicing of their Peel Auger, in that:

Instance 1 - No written hazardous energy control procedures are documented in writing, in accordance with T8CCR 3314(g)(1). Reference T8CCR 3314(g)(2).

Instance 2 - No separate procedural steps for the safe lockout/tagout of the auger in the high care room, in accordance with T8CCR 3314(g)(2)(A).

Date By Which Violation Must be Abated:

July 05, 2019

Proposed Penalty:

\$750.00

State of California

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Citation and Notification of Penalty

Company Name: SFFI Company, Inc.
Establishment DBA: Simply Fresh Fruit
and its successors
Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR § 3314(l)(1) The Control of Hazardous Energy for the Cleaning, Repairing, Servicing, Setting-Up, and Adjusting Operations of Prime Movers, Machinery and Equipment, Including Lockout/Tagout.

(l) Training.

(1) Authorized employees shall be trained on hazardous energy control procedures and on the hazards related to performing activities required for cleaning, repairing, servicing, setting up and adjusting prime movers, machinery and equipment.

(2) Each affected employee shall be instructed in the purpose and use of the energy control procedure.

(3) All other employees whose work operations may be in an area where energy control procedures may be utilized, shall be instructed about the prohibition relating to attempts to restart or reenergize machines or equipment which are locked out or tagged out.

(4) Such training shall be documented as required by Section 3203.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to ensure their sanitation employee was trained on hazardous energy control procedures and on the hazards related to cleaning and servicing their Peel Auger.

Date By Which Violation Must be Abated:

July 05, 2019

Proposed Penalty:

\$560.00

State of California

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Citation and Notification of Penalty

Company Name: SFFI Company, Inc.
Establishment DBA: Simply Fresh Fruit
and its successors
Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR §3203(a). Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

- (1) Identify the person or persons with authority and responsibility for implementing the Program.
- (2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.
- (3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.
- (4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:
 - (A) When the Program is first established;
 - (B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and
 - (C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the program is first established;

(B) To all new employees;

(C) To all employees given new job assignments for which training has not previously been received;

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,

(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to implement and maintain an effective Injury and Illness Prevention Program, in that:

Instance 1: The employer failed to recognize the hazards associated with an employee working at elevated heights in excess of 10 feet, without guardrails on one side of the platform, without fall protection, while cleaning a rotating auger, in accordance with T8CCR§3203(a)(4).

Instance 2: The employer failed to recognize hazards associated with an employee improperly using an A-Frame ladder to access a landing or platform to perform cleaning operation of the auger, in accordance with T8CCR§3203(a)(4).

Instance 3: The employer failed to recognize hazards associated with an employee climbing an A-Frame ladder to a height in excess of 10 feet, in a wet environment, in accordance with T8CCR§3203(a)(4).

Instance 4: The employer failed to recognize hazards associated with an employee cleaning a rotating auger using a standard hose and nozzle instead of a hose with a wand extension, causing an employee to place themselves at risk of falls from an elevated platform, to thoroughly spray all of the various areas of the auger and trough, in accordance with T8CCR§3203(a)(4).

Instance 5: The employer failed to make corrections to the hazards identified in instances 1 thru 4, once observed, in accordance with T8CCR§3203(a)(6).

Instance 6: The employer failed to provide and document safety training on ladder use, lockout tagout process, and methods to be used while cleaning the auger, in accordance with T8CCR§3203(a)(7).

As a result, on December 20, 2018, a serious crushing injury, requiring the surgical amputation of an employee's fingers, occurred while an employee was cleaning an active rotating auger.

Date By Which Violation Must be Abated:
Proposed Penalty:

June 12, 2019
\$22500.00

State of California

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Citation and Notification of Penalty

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Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR §3210(a). Guardrails at Elevated Locations.

(a) Buildings. Guardrails shall be provided on all open sides of unenclosed elevated work locations, such as: roof openings, open and glazed sides of landings, balconies or porches, platforms, runways, ramps, or working levels more than 30 inches above the floor, ground, or other working areas of a building as defined in Section 3207 of the General Industry Safety Orders. Where overhead clearance prohibits installation of a 42-inch guardrail, a lower rail or rails shall be installed. The railing shall be provided with a toeboard where the platform, runway, or ramp is 6 feet or more above places where employees normally work or pass and the lack of a toeboard could create a hazard from falling tools, material, or equipment.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to ensure that guardrails are provided on all open sides of unenclosed elevated work locations, such as the platform adjacent to the top of the auger in excess of 10 feet above the floor, ground, or working area, in accordance with this section.

Date By Which Violation Must be Abated:
Proposed Penalty:

June 12, 2019
\$22500.00

State of California

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Citation and Notification of Penalty

Company Name: SFFI Company, Inc.
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Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR §3276(e)(15)(E). Portable Ladders.

(E) Employees shall not sit, kneel, step or stand on the pail shelf, topcap or the step below the topcap of a step ladder.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to ensure that employees do not step or stand on the topcap or the step below the topcap of an A-Frame step ladder while accessing a platform adjacent to the top of the auger during cleaning operations.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$9000.00

State of California

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Inspection #: 1368393
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Issuance Date: 05/31/2019
CSHO ID: B4064
Optional Report #: 19-020



Citation and Notification of Penalty

Company Name: SFFI Company, Inc.
Establishment DBA: Simply Fresh Fruit
and its successors
Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR §3314(c). The Control of Hazardous Energy for the Cleaning, Repairing, Servicing, Setting-Up, and Adjusting Operations of Prime Movers, Machinery and Equipment, Including Lockout/Tagout.

(c) Cleaning, Servicing and Adjusting Operations.

Machinery or equipment capable of movement shall be stopped and the power source de-energized or disengaged, and, if necessary, the moveable parts shall be mechanically blocked or locked out to prevent inadvertent movement, or release of stored energy during cleaning, servicing and adjusting operations. Accident prevention signs or tags or both shall be placed on the controls of the power source of the machinery or equipment.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to ensure that their screw auger conveyor system, capable of movement, was stopped and the power source de-energized or disengaged, and locked out to prevent inadvertent movement or release of stored energy during cleaning operations.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$11250.00

State of California

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Citation and Notification of Penalty

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Inspection Site: 4383 Exchange Ave.,
Vernon, CA 90058

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

T8CCR§4075(a). Gears and Sprockets.

(a) All gears, sprockets and sprocket chain drives located 7 feet or less above the floor or working level shall be guarded.

Violation:

Prior to and during the course of the inspection, including but not limited to December 27, 2018, the employer failed to ensure the following; that all gears, sprockets and sprocket chain drives located 7 feet or less above the floor or working level, are guarded.

Instance 1: The chain and sprocket drive at the bottom of the auger was unguarded.

Instance 2: The chain and sprocket drive for Conveyor Line #4 was unguarded.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$6750.00

Alfred Varela
Compliance Officer / District Manager

