**State of California**
**Department of Industrial Relations**
**Division of Occupational Safety and Health**
**American Canyon District Office**
3419 Broadway Street Ste H8
American Canyon, CA 94503
Phone: (707) 649-3700 Fax: (707) 649-3712

# CITATION AND NOTIFICATION OF PENALTY

**To:**
De Coninck Vineyards, Inc.
and its successors
1006 Monticello Rd
Napa, CA 94558

**Inspection #:** 1356929
**Inspection Date (s):** 10/29/2018 - 04/26/2019
**Issuance Date:** 04/26/2019
**CSHO ID:** P7724
**Optional Report #:** 001-19
**Reporting ID:** 0950615

**Inspection Site:**
1006 Monticello Rd
Napa, CA 94558

*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.*

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**This Citation and Notification of Penalty** (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/ investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer**. Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

**YOU HAVE A RIGHT** to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

**Informal Conference** - You may request an informal conference with the manager of the district office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

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
American Canyon District Office
3419 Broadway Street Ste H8
American Canyon, CA 94503
Telephone: (707) 649-3700
Fax: (707) 649-3712

## 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.

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**Inspection #:** 1356929
**Inspection Dates:** 10/29/2018 - 04/26/2019
**Issuance Date:** 04/26/2019
**CSHO ID:** P7724
**Optional Report #:** 001-19

## Citation and Notification of Penalty

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd
Napa, CA 94558

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

**Title 8 CCR Section 3395(h)(1). Heat Illness Prevention.**

(h) Training.

(1) Employee training. Effective training in the following topics shall be provided to each supervisory and non-supervisory employee before the employee begins work that should reasonably be anticipated to result in exposure to the risk of heat illness:

(A) The environmental and personal risk factors for heat illness, as well as the added burden of heat load on the body caused by exertion, clothing, and personal protective equipment.

(B) The employer's procedures for complying with the requirements of this standard, including, but not limited to, the employer's responsibility to provide water, shade, cool-down rests, and access to first aid as well as the employees' right to exercise their rights under this standard without retaliation.

(D) The concept, importance, and methods of acclimatization pursuant to the employer's procedures under subsection (i)(4).

(F) The importance to employees of immediately reporting to the employer, directly or through the employee's supervisor, symptoms or signs of heat illness in themselves, or in co-workers.

(G) The employer's procedures for responding to signs or symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary.

(H) The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider.

(I) The employer's procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders. These

**procedures shall include designating a person to be available to ensure that emergency procedures are invoked when appropriate.**

Prior to and during the course of inspection, including but not limited to, on October 29, 2018 the employer failed to provide effective training to each supervisory and non-supervisory employee before the employee began work outdoors that should reasonably be anticipated to result in exposure to the risk of heat illness.

| | |
|---|---|
| **Date By Which Violation Must be Abated:** | **Corrected During Inspection** |
| **Proposed Penalty:** | **$560.00** |

**State of California**
Department of Industrial Relations
Division of Occupational Safety and Health
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**Inspection #:** 1356929
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## Citation and Notification of Penalty

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd
Napa, CA 94558

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

**Title 8 CCR Section 3395(i). Heat Illness Prevention Plan.**

**(i) The employer shall establish, implement, and maintain, an effective heat illness prevention plan. The plan shall be in writing in both English and the language understood by the majority of the employees and shall be made available at the worksite to employees and to representatives of the Division upon request. The Heat Illness Prevention Plan may be included as part of the employer's Illness and Injury Prevention Program required by section 3203, and shall, at a minimum, contain:**

**(1) Procedures for the provision of water and access to shade.**

**(2) The high heat procedures referred to in subsection (e).**

**(3) Emergency Response Procedures in accordance with subsection (f).**

**(4) Acclimatization methods and procedures in accordance with subsection.**

Prior to and during the course of inspection, including but not limited to, on October 29, 2018, the employer failed to establish, implement, and maintain, an effective written heat illness prevention plan as required by this subsection.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**
**Proposed Penalty:** **$560.00**

**State of California**
Department of Industrial Relations
Division of Occupational Safety and Health
American Canyon District Office
3419 Broadway Street Ste H8
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**Issuance Date:** 04/26/2019
**CSHO ID:** P7724
**Optional Report #:** 001-19

## Citation and Notification of Penalty

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd
Napa, CA 94558

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

**Title 8 CCR Section 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:**

**(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.**

**(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.**

**(7) Provide training and instruction.**

Prior to and during the course of inspection, including but not limited to, on October 29, 2018, the employer failed to implement and maintain their Injury and Illness Prevention Program in that:

1. The employer failed to enforce and ensure employees comply with all of their safety rules, and the code of safe practices. Reference: Section 3203(a)(2).

2. The employer failed to conduct effective periodic and unscheduled inspections of the worksite to identify and correct unsafe actions and conditions, to include identifying unguarded moving parts of machinery and equipment and wearing loose clothing around such moving parts, and ensuring machinery and equipment were maintained in a safe working condition. Reference: Section 3203(a)(4).

3. The employer failed to instruct all employees under their supervision in safe work practices and job safety requirements. Reference: Section 3203(a)(7).

**Date By Which Violation Must be Abated:** Corrected During Inspection
**Proposed Penalty:** $5060.00

**State of California**
Department of Industrial Relations
Division of Occupational Safety and Health
American Canyon District Office
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**Inspection #:** 1356929
**Inspection Dates:** 10/29/2018 - 04/26/2019
**Issuance Date:** 04/26/2019
**CSHO ID:** P7724
**Optional Report #:** 001-19

## Citation and Notification of Penalty

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd
Napa, CA 94558

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Citation 3 Item 1 Type of Violation: **Serious Accident-Related**

**Title 8 CCR Section 3440(d)(2). Agricultural Equipment.**

**(d) Other Power Transmission Components.**

**(2) All revolving shafts, including projections such as bolts, keys or set screws, shall be guarded, except smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.**

Prior to and during the course of inspection, including but not limited to, on October 29, 2018, the employer failed to guard the revolving control shaft located on the top of the Braud New Holland Harvester #629A22002. As a result, an employee was fatally injured when his sweatshirt became entangled around an unguarded shaft while reaching over it to unclog the funnel of the machine.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**
**Proposed Penalty:** **$15750.00**

**State of California**
Department of Industrial Relations
Division of Occupational Safety and Health
American Canyon District Office
3419 Broadway Street Ste H8
American Canyon, CA 94503
Phone: (707) 649-3700 Fax: (707) 649-3712

**Inspection #:** 1356929
**Inspection Dates:** 10/29/2018 - 04/26/2019
**Issuance Date:** 04/26/2019
**CSHO ID:** P7724
**Optional Report #:** 001-19

## Citation and Notification of Penalty

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd
Napa, CA 94558

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Citation 4 Item 1 · Type of Violation: **Serious Accident-Related**

**Title 8 CCR Section 3441(a)(2)(C). Operation of Agricultural Equipment.**

**(a) Operating Instructions and Safe Work Practices.**

**(2) Agricultural equipment shall be operated in accordance with the following safe work practices and operating rules:**

**(C) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case all steps and procedures which are necessary to safely service or maintain the equipment shall be taken;**

Prior to and during the course of inspection, including but not limited to, on October 29, 2018, the employer failed to ensure that the Braud New Holland Harvester #629A22002 was operated in accordance with the following safe work practices and operating rules. Specifically, the employer failed to ensure that the engine was stopped, the power source was disconnected, before servicing, adjusting, cleaning or unclogging the equipment. As a result, an employee was fatally injured while in the process of unclogging the funnel of the energized grape harvester.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**
**Proposed Penalty:** **$15750.00**

Kathy Lynn Garner
Compliance Officer / District Manager

**State of California**
**Department of Industrial Relations**
**Division of Occupational Safety and Health**
**American Canyon District Office**
3419 Broadway Street Ste H8
American Canyon, CA 94503
Phone: (707) 649-3700 Fax: (707) 649-3712

# NOTICE OF PROPOSED PENALTIES

**Company Name:** De Coninck Vineyards, Inc.
**Establishment DBA:**
and its successors
**Inspection Site:** 1006 Monticello Rd, Napa, CA 94558
**Mailing Address:** 1006 Monticello Rd, Napa, CA 94558
**Issuance Date:** 04/26/2019
**Reporting ID:** 0950615
**CSHO ID:** P7724

## Summary of Penalties for Inspection Number 1356929

| | |
|---|---|
| Citation 1 Item 1, General | $560.00 |
| Citation 1 Item 2, General | $560.00 |
| Citation 2 Item 1, Serious | $5060.00 |
| Citation 3 Item 1, Serious Accident-Related | $15750.00 |
| Citation 4 Item 1, Serious Accident-Related | $15750.00 |
| **TOTAL PROPOSED PENALTIES:** | **$37680.00** |

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

If you are paying electronically: Please have this form on-hand when you are ready to make your payment. The company name, reporting ID and Citation number(s) will be required 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: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty 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.

**DEPARTMENT OF INDUSTRIAL RELATIONS**
**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH – CAL/OSHA**
**Accounting Office - Cashiering Unit**
Phone (415) 703-4310 or (415) 703-4308

## PENALTY REMITTANCE FORM

| | | | |
|---|---|---|---|
| CIVIL PENALTY INFO | INSPECTION NO.: 1356929 | REPORTING ID: | 0950615 |
| COMPANY NAME: | De Coninck Vineyards, Inc. | FEIN/SEIN: | UNKNOWN |
| ESTABLISHMENT DBA: | | | |
| CONTACT PERSON: | Chantal De Coninck | | |
| PHONE NO.: | (707) 254-1460 | FAX NO.: | UNKNOWN |
| SITE ADDRESS: | 1006 Monticello Rd, Napa, CA 94558 | | |
| MAILING ADDRESS: | 1006 Monticello Rd, Napa, CA 94558 | | |

**CITATION INFORMATION:**
Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this Citation, remittance is still due on all items that are not appealed.

**PAYMENT INSTRUCTIONS:**
For check or money order: please make check or money order payable to Department of Industrial Relations. Write the inspection number and total amount enclosed on the payment coupon below and on the check or money order.
For credit card or EFT payment, go to: www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html

----- Detach here and return bottom portion with check or money order payment -----

## PAYMENT COUPON

California Department of Industrial Relations

Inspection No.: 1356929

Amount Enclosed: $ _____

**Mail payment to:**

DEPARTMENT OF INDUSTRIAL RELATIONS
CAL/OSHA PENALTIES
P.O. BOX 516547
LOS ANGELES, CA 90051-0595

For credit card or EFT payment, go to:
www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html

**STATE OF CALIFORNIA** **GAVIN NEWSOM, *Governor***

DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Occupational Safety and Health
American Canyon District Office
3419 Broadway Street Ste H8
American Canyon, CA 94503
Tel. # (707) 649-3700 Fax # (707) 649-3712

# NOTICE OF VERIFICATION OF ABATEMENT OF SERIOUS VIOLATIONS

De Coninck Vineyards, Inc.
1006 Monticello Rd
Napa, CA 94558

During the course of an inspection or re-inspection at a place of employment located at:

| 1006 Monticello Rd | | |
|---|---|---|
| Street | | |
| Napa | CA | 94558 |
| City | State | Zip |

The Division has verified abatement of the following Citation(s) alleging a serious violation or Special Orders(s) or Orders(s) to Take Special Action:

| Citation or Order No. | Number of Instances | Date Division Verified Abatement |
|---|---|---|
| 2-1 | 3 | 4/26/19 |
| 3-1 | 1 | 4/26/19 |
| 4-1 | 1 | 4/26/19 |
| | | |
| | | |
| | | |

Signature: _____ Date of Issuance: April 26, 2019
Compliance Safety and Health Officer

YC

This notice is provided to the employer in accordance with the provisions of California Labor Code Section 6318(b). The employer is required to post this notice for three (3) working days at or near the location of the alleged violation.

| 0950615 | 1356929 | P7724 | 001-19 |
|---|---|---|---|
| RID | Inspection Nr. | CSHO ID | Optional Report Nr. |

**STATE OF CALIFORNIA** **GAVIN NEWSOM, *Governor***

DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Occupational Safety and Health
American Canyon District Office
3419 Broadway Street Ste H8
American Canyon, CA 94503
Tel. # (707) 649-3700 Fax # (707) 649-3712

# NOTICE OF ACCIDENT-RELATED VIOLATION AFTER INVESTIGATION

De Coninck Vineyards, Inc.
1006 Monticello Rd
Napa, CA 94558

An investigation of an industrial accident or occupational illness was conducted by Joey Crocker at a place of employment located at 1006 Monticello Rd, Napa, on 10/29/2018.

Describe the condition(s) inspected:

Fatal injury of 10/29/18 involving Braud New Holland Harvester.

It has been determined by the Division that the fatal or serious injury, illness or exposure described above was related to the following serious, willful or repeat violation:

| Serious | 3440(d)(2) and 3441(a)(2)C) |
|---|---|
| Classification of Violation | Title 8 CCR Section |

Signature _____ Compliance Safety and Health Officer

Signature _____ District Manager

Date of issuance: April 26, 2019

Date investigation completed: 04/26/2019

Upon request, the Division will provide the employer with a copy of its inspection report pertaining to this investigation.

| 0950615 | P7724 | 001-19 | 1356929 |
|---|---|---|---|
| RID | CSHO ID | Optional Report Nr. | Inspection Nr. |