

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
2296 Henderson Mill Road  
Suite 200  
Atlanta, GA 30345  
Phone: 770-493-6644 Fax: 770-493-7725



## Citation and Notification of Penalty

**To:**  
Evergreen Nursery, Inc.  
and its successors  
1501 Dials Mill Rd  
Statham, GA 30666

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016

**Inspection Site:**  
1501 Dials Mill Rd  
Statham, GA 30666

*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. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**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.

**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 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.**

**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. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

**Notification of Corrective Action** – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

**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.

**Inspection Activity Data** – 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 these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at [www.osha.gov](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 05/25/2016. The conference will be held by telephone or at the OSHA office located at 2296 Henderson Mill Road, Suite 200, Atlanta, GA 30345 on \_\_\_\_\_ at \_\_\_\_\_.

Employees and/or representatives of employees have a right to attend an informal conference.

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1135445**

Company Name: Evergreen Nursery, Inc.  
Inspection Site: 1501 Dials Mill Rd, Statham, GA 30666  
Issuance Date: 05/25/2016

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 2296 Henderson Mill Road, Suite 200, Atlanta, GA 30345**

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_  
\_\_\_\_\_

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

**NOTE: 29 USC 666(g)** whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

**POSTING:** A copy of completed Corrective Action Worksheet should be posted for employee review



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

OSH ACT of 1970 Section (5)(a)(1): OSH ACT of 1970 Section 5(a)(1): 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 a employee was exposed to crushing hazards:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Where a employee operated the Kalmar AC powered industrial truck without wearing a seat belt to lift and move plant material. The employer failed to ensure all employees operating powered industrial trucks worn their restraint device to protect them from being crushed.

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.

Among other methods, feasible and acceptable means of abatement include, but are not limited to: Review and follow the requirements in the following publications and manuals: The America National Standard Institution Safety Standard for Low Lift and High Lift Trucks ANSI/TISDF B56.1-2012 requires an active operator protection device or system when provided shall be used. Operator protection in the event of tipover is intended to reduce the risk of entrapment of the head and torso between the truck and the ground but may not protect the operator against all possible injuries.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$4900.00

See pages 1 through 4 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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.23(c)(1): Open-sided floors and/or platforms four feet or more above adjacent floor or ground level were not guarded with standard railings (or equivalent) and toeboards: Note: Toeboards are only required when persons can pass, there is moving equipment or there is equipment with which falling materials could create a hazard.

On or about 2/24/2016 in the Less Than Truck Load (LTL) Shelving Shop on the two mezzanines at 1501 Dials Mill Road , Statham, GA: Employees storing and removing plastic and other material used with the plant houses are exposed to a fall hazard up to 8 feet where a guardrail system was not installed completely.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated: 06/14/2016  
Proposed Penalty: \$3500.00

See pages 1 through 4 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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.23(d)(1)(iii): Stairway(s) less than 44 inches wide having both sides open, did not have one stair railing on each side:

On or about 2/24/2016 in the Less Than Truck Load (LTL) Shelving Shop on the two mezzanines at 1501 Dials Mill Road , Statham, GA: Employees using the stairways to access the two upper mezzanine to store and remove plastic and other material were exposed to a fall hazard up to 8 feet from the stairways not equipped without stair railing on both open sides.

No abatement certification or documentation is required for this item.

Date By Which Violation Must be Abated:	06/14/2016
Proposed Penalty:	\$3500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.110(b)(5)(iii): When LP-Gas and one or more other gases were stored or used in the same area, the employer did not ensure that the containers were marked to identify their content.

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: No chemical or hazardous warning labels or markings were provided on the highly combustible propane container used by the employees filling propane fuel containers for powered industrial trucks.

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.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$2800.00



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.110(b)(14)(v): Filling of fuel containers for industrial trucks or motor vehicles from industrial bulk storage containers was performed less than 25 feet from the nearest important building or other construction:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employees filled portable propane containers used for powered industrial trucks on the dock area from a 250 lb. propane container that was approximately 3 feet and up to 10 feet from the plant house buildings on-site.

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.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$4900.00



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

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

29 CFR 1910.134(c)(1): A written respiratory protection program that included the provisions in 29 CFR 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road , Statham, GA: Employees are exposed to inhalation hazards when spraying the chemicals used in the plant houses. The employer requires the use of a respirator, but had not established and implemented a written respiratory protection program.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$3500.00

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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road , Statham, GA: Employees are exposed to inhalation hazards when spraying the chemicals used in the plant houses. The employer did not provide a medical evaluation prior to the required use of their respirator.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 06/21/2016

See pages 1 through 4 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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.134(f)(2): Employee(s) using tight-fitting facepiece respirators were not fit tested prior to initial use of the respirator:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employees are exposed to inhalation hazards and are required to wear a Survivair half face respirator. The employer had not provided respirator fit testing for employees.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 06/21/2016

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.134(k)(1): The employer did not provide effective training to employees who were required to use respirators:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employees are exposed to inhalation hazards when spraying the chemicals used in the plant houses. The employees are required to wear a Survivair half face series respirator but had not been provided with training on the respirator.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 06/21/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.138(a): The employer did not select and require employee(s) to use appropriate hand protection when employees' hands were exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasion; punctures; chemical burns; thermal burns; and harmful temperature extremes.

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employees were exposed to a chemical burn and frost bite hazard while changing out propane chemicals on the powered industrial trucks without the use of proper hand protection.

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:	06/21/2016
Proposed Penalty:	\$3500.00

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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

29 CFR 1910.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Where an employee was performing services, adjustments, and minor repairs on the powered industrial trucks, no specific written energy control procedures were developed or utilized to protect employee from a crush and caught-in hazard.

No abatement certification or documentation is required for this item.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$3500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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**Citation 1 Item 9** Type of Violation: **Serious**

29 CFR 1910.178(l)(4)(iii): An evaluation of each powered industrial truck operator's performance was not being conducted at least once every three years:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employees operating powered industrial trucks in the buildings and on-site were not retrained and reevaluated at least once every three years to ensure they have the knowledge and experience needed to operate the truck safely.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$4900.00



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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**Citation 1 Item 10** Type of Violation: **Serious**

29 CFR 1910.219(e)(1)(i): Horizontal belts which had both runs seven feet or less from the floor level were not guarded with a guard that extended to at least fifteen inches above the belt:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Employee operating the air compressor used with air tools such as but not limited to nail gun and air nozzles to construct plant shelves was exposed to an amputation hazard from the missing guarded for the belt. The employee started the air compressor is used daily with the missing guard on the pulleys and belt.

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.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$4900.00



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

Citation 1 Item 11 a      Type of Violation: **Serious**

29 CFR 1910.303(c)(3)(i): Conductors were not spliced or joined with splicing devices identified for the use or by brazing, welding, or soldering with a fusible metal or alloy. Soldered splices were not spliced or joined mechanically and electrically secured first without solder and then soldered. All splices and joints and the free ends of conductors were not covered with an insulation equivalent to that of the conductors or with an insulating device identified for the purpose.

On or about 2/24/2016 in the Less Than Truck Load (LTL) tray Fabrication Shop and Maintenance Shop at 1501 Dials Mill Road, Statham, GA: Employee operating the equipment listed below were exposed to a electrical hazard at about 120 volts from the improperly repaired and insulated spliced wiring on the:

1. Electrical Hand Grinder/Sander
2. Electrical Miter Saw
3. Electrical Table Saw

No abatement certification or documentation is required for this item.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/01/2016
Proposed Penalty:	\$3500.00

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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
**Issuance Date:** 05/25/2016



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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**Citation 1 Item 11 b**      Type of Violation: **Serious**

29 CFR 1910.305(a)(2)(xi): Cable assemblies and flexible cords and cables were not supported in place at intervals that ensure that they will be protected from physical damage:

On or about 2/24/2016 in the Less Than Truck Load (LTL) tray Fabrication Shop and Maintenance Shop at 1501 Dials Mill Road, Statham, GA: Employee operating the air compressor with the improperly supported and installed wiring into the main electrical panel was exposed to a electrical hazard at about 220 volts.

No abatement certification or documentation is required for this item.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 06/01/2016

See pages 1 through 4 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

**Inspection Number:** 1135445  
**Inspection Date(s):** 03/24/2016 - 03/25/2016  
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**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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**Citation 1 Item 11 c**      Type of Violation: **Serious**

29 CFR 1910.305(b)(2)(i): Each outlet box in completed installations did not have a cover, faceplate, or fixture canopy:

On or about 2/24/2016 in the Less Than Truck Load (LTL) tray Fabrication Shop and Maintenance Shop at 1501 Dials Mill Road, Statham, GA: Employee operated the electrical hand tools daily was exposed to a electrical hazard at about 120 volts from the missing face cover on outlet.

No abatement certification or documentation is required for this item.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: **06/01/2016**

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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

Citation 1 Item 12 a      Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: A written hazard communication plan was not developed where employees are required to work with chemicals such as but not limited to: oxygen, acetylene, XXpire Insecticide, Pageant Intrinsic Brand Fungicide, propane, and other chemicals as a part of their daily duties.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	06/21/2016
Proposed Penalty:	\$3500.00



**Citation and Notification of Penalty**

**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666

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**Citation 1 Item 12 b**      Type of Violation: **Serious**

29 CFR 1910.1200(h)(1): Employees were not provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard that the employees had not been previously trained about was introduced into their work area:

On or about 2/24/2016 in the plant houses at 1501 Dials Mill Road, Statham, GA: Hazard communication training was not provided where employees were required to work with, near, or exposed to chemicals that included but were not limited to: oxygen, acetylene, propane, and other chemicals as a part of their daily duties.

In accordance with 29 CFR 1903.19(c), abatement certification is required for this violation (using the CERTIFICATION OF CORRECTIVE ACTION WORKSHEET).

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 06/21/2016

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**William C. Fulcher**  
Area Director

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
2296 Henderson Mill Road  
Suite 200  
Atlanta, GA 30345  
Phone: 770-493-6644 Fax: 770-493-7725



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Evergreen Nursery, Inc.  
**Inspection Site:** 1501 Dials Mill Rd, Statham, GA 30666  
**Issuance Date:** 05/25/2016

<b>Summary of Penalties for Inspection Number</b>	<b>1135445</b>
<b>Citation 1, Serious</b>	<b>\$46900.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$46900.00</b>

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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. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

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 one percent (1%). 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.

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**William C. Fulcher**  
Area Director

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Date