

**Este documento es muy importante. Si ud. No habla inglés,
busque un traductor o llame al (920) 734-4521.**

U.S. Department of Labor

Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914
Phone: (920) 734-4521 Fax: (920) 734-2661



March 25, 2021

Dear Brian Thiel,

On 11/12/2020, an OSHA compliance officer met with you or your representative as part of an inspection at 477 S. Douglas Street, Ripon, WI 54971. This letter includes the citations for the violations that were found (see summary below). Please choose one of the three options from the box to the right and complete the associated steps found on the following page **within 15 working days**. Please call us if you have any questions about the enclosed citation and/or penalties; we are here to help you choose the best option to resolve your citation as quickly as possible.

Sincerely,

For:
Robert J. Bonack, Area Director

**Step 1 – Choose a Response
Option and
Act within 15 working days**

Respond now before you lose the ability to discuss potential adjustments to penalty amounts and/or due dates. Please choose one option below and complete the steps on the next page.

Option #1 – Discuss with OSHA

I would like to discuss the citation with an OSHA representative. This may lead to changes in the penalty amount, due date or correction deadlines (if appropriate).

Option #2 – Correct and Pay

I agree with the citation, penalties, and correction deadlines, and do not contest.

Option #3 – Contest the Citation

I do not agree with the citation, penalties, and/or correction deadlines, and would like to contest.

Your Citation Summary
Seneca Foods Corporation
Inspection Number: 1502070

Total Amount Due: \$177,490.00
**Payment Due Date: 15 working days
after receipt of
this letter**

You must correct each violation by the date listed in the Citation and Notification of Penalty. Please see the violations and the correction deadline for each violation starting on page 6.

Total Number of Violations : 4
Your First Correction Deadline is:
April 22, 2021

Questions or Concerns?

If you have any questions or concerns regarding the citation, penalties, and/or correction deadlines, please call us at (920) 734-4521.

Step 2 – Complete One Option Checklist

Please post a copy of the citation at or near the place where each violation occurred, even if you plan to contest. You can use the checklist to the right to help plan your next steps. Please do not send in your checklist.

Option #1 – Discuss with OSHA

I will complete by:

1. Call our office at (920) 734-4521 as soon as possible to schedule a meeting with an OSHA representative that must occur **within 15 working days** of receiving this citation. Bring supporting documentation of existing conditions and corrections done thus far. If necessary, you can still contest the citation after this meeting. ****This meeting does NOT extend your 15 working day deadline to contest the citation.****
2. Fill in and post the attached “Notice to Employees OSHA Informal Conference” after scheduling meeting.

___ / ___

___ / ___

Option #2 – Correct Violations and Pay Penalty

I will complete by:

1. Correct violations, then complete and mail the attached “Certification of Corrective Action Worksheet” along with the appropriate evidence of repair (e.g. photos, purchase orders, etc.) to the OSHA office listed on the first page, **postmarked within 10 calendar days after each violation's correction deadline and include any required evidence. If these documents are transmitted by means other than mailing, the date the Agency received the documents is the date of submission.**
2. Pay the **Total Penalty** by using one of the following methods:
****Include your Inspection Number (see first page) on the payment.****

___ / ___

___ / ___

Pay Online: Search “OSHA” on www.pay.gov and complete the “OSHA Penalty Payment Form.” Pay by debit, credit or Automated Clearing House (ACH) **within 15 working days.** Penalties over \$25,000 must be paid by ACH and require a Transaction ID (Call 202-693-2170 to obtain one).

Pay by Check: Mail check or money order payable to “DOL-OSHA” for the Total Penalty to the OSHA office listed on the first page **within 15 working days.**

Option #3 – Contest the Citation

I will complete by:

Mail a letter of intent to legally contest to the OSHA office listed on the first page, postmarked within **15 working days.**

___ / ___

U.S. Department of Labor Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



03/25/2021

Seneca Foods Corporation
and its successors
477 S. Douglas Street
Ripon, WI 54971

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (920) 734-4521.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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. If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bonack', written in a cursive style.

For:
Robert J. Bonack
Area Director

Enclosures

U.S. Department of Labor

Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



Citation and Notification of Penalty

To:
Seneca Foods Corporation
and its successors
477 S. Douglas Street
Ripon, WI 54971

Inspection Number: 1502070
Inspection Date(s): 11/12/2020-03/17/2021
Issuance Date: 03/25/2021

Inspection Site:
477 S. Douglas Street
Ripon, WI 54971

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 by calling (920) 734-4521. 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 at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type “OSHA” in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. 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. 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 03/25/2021. The conference will be held by telephone or at the OSHA office located at 1648 Tri Park Way, Appleton, WI 54914 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1502070

Company Name: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971
Issuance Date: 03/25/2021

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, 1648 Tri Park Way, Appleton, WI 54914.**

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.

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

Inspection Number: 1502070
Inspection Date(s): 11/12/2020 - 03/17/2021
Issuance Date: 03/25/2021



Citation and Notification of Penalty

Company Name: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971

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

29 CFR 1910.147(c)(6)(i): The employer shall conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the requirements of this standard are being followed.

On or about November 12, 2020, Seneca Foods Corporation had not completed a periodic inspection of the energy control procedure for the Whallon Palletizer on Line 2 in the Palletizer Department at least annually to ensure that the procedure and requirements of this standard were being followed.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

April 22, 2021
\$13,653.00

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: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971

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 2 a Type of Violation: **Serious**

29 CFR 1910.178(l)(4)(ii)(B): Refresher training in relevant topics shall be provided to the operator when the operator has been involved in an accident or near-miss incident.

An employee who was involved in an accident while driving a Hyster Model E60XN-33 Forklift did not receive refresher training, as described by this standard, prior to being allowed to continue operating the forklift.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

April 22, 2021

Proposed Penalty:

\$13,653.00

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

Inspection Number: 1502070
Inspection Date(s): 11/12/2020 - 03/17/2021
Issuance Date: 03/25/2021



Citation and Notification of Penalty

Company Name: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971

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

29 CFR 1910.178(n)(6): The driver shall be required to look in the direction of, and keep a clear view of the path of travel.

On or about November 4, 2020, a pedestrian employee was struck by a Hyster Model E60XN-33 Forklift when the operator driving the lift did not look in the direction in which they were travelling.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

April 22, 2021
\$0.00

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: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971

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

29 CFR 1910.147(c)(7)(i)(A): Each authorized employee shall 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.

Employees were exposed to machine hazards associated with moving parts when employees conducting servicing activities on Whallon Palletizers in the Palletizing area had not received training as authorized employees under the company's Hazardous Energy Control Program.

Seneca Foods Corporation was previously cited for a violation of this occupational safety and health standard which was contained in OSHA inspection number 1433006, citation number 1, item number 3a, and was affirmed as a final order on May 11, 2020, with respect to a workplace located at Gillett, WI.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

April 22, 2021
\$75,092.00



Citation and Notification of Penalty

Company Name: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971

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

29 CFR 1910.147(d): The established procedure for the application of energy control (the lockout or tagout procedures) did not cover the actions listed in and was not done in sequence as required by 29 CFR 1910.147(d)(1)-(6).

On or about September 28, 2020, an employee was exposed to machine hazards associated with moving parts when they engaged in a servicing activity for a pneumatic ram on the Line 2 Whallon Palletizer's pattern table. The employer did not ensure that employees implemented energy control application steps prior to allowing them to tighten the main bolt on the ram with hand tools. The machine was still energized and as the employee removed the guard, the machine actuated, and caught their finger between the ram and a steel bar.

As a result, the remaining applicable energy control elements, involving machine isolation [1910.147(d)(3)], lockout/tagout device application [1910.147(d)(4)], dissipation of residual energy [1910.147(d)(5)(i)], and verification of isolation [1910.147(d)(6)] were not implemented to protect employees from machine servicing hazards.

Seneca Foods Corporation was previously cited for a violation of this occupational safety and health standard which was contained in OSHA inspection number 1433006, citation number 1, item number 4, and was affirmed as a final order on May 11, 2020, with respect to a workplace located at Gillett, WI.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

April 22, 2021
\$75,092.00


For: _____
Robert J. Bonack
Area Director

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
1648 Tri Park Way
Appleton, WI 54914



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: Seneca Foods Corporation
Inspection Site: 477 S. Douglas Street, Ripon, WI 54971
Issuance Date: 03/25/2021

Summary of Penalties for Inspection Number: 1502070

Citation 1 Item 1, Serious	\$13,653.00
Citation 1 Item 2a, Serious	\$13,653.00
Citation 1 Item 2b, Serious	\$0.00
Citation 2 Item 1, Repeat - Serious	\$75,092.00
Citation 2 Item 2, Repeat - Serious	\$75,092.00

TOTAL PROPOSED PENALTIES: \$177,490.00

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. You can also make your payment electronically at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type "OSHA" in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. 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.

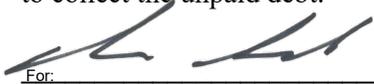
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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 two 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.


For: _____

Robert J. Bonack

Area Director

March 25, 2021

Date