

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

RECEIVED

MAY 30 2012

OSH Appeals Board

APPEAL FORM

2012-R 3 D 1 -1707

315526707

Inspection Number on Citation

VISTA PAINT CORPORATION

Employer Name on Citation

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

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FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 1 Item No(s): 1-3

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

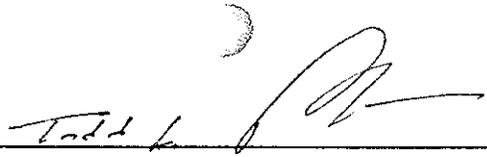
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(Signature of Employer or Employer's Representative)

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(Type or print name)

Attorney for Vista Paint Corporation

(Title)

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(Address) {Address where all communications from the Appeals Board will be sent;

San Francisco

CA

94111

(City)

(State)

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415 403-4482

tpeterson@behblaw.com

5/30/12

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State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011 - 05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

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Citation 1 Item 1 Type of Violation: Regulatory

OSHA Appeals Board

5203. Carcinogen Report of Use Requirements.

(c) Use that requires reporting.

(1) Regulated area. For all regulated carcinogens that specify a requirement for the employer to establish a regulated area, use of a regulated carcinogen within such a regulated area shall be reported.

When inspected on 11/15/11, a regulated carcinogen, Methylene Chloride, was found in use in employer's work process for cleaning Let Down Tanks at its facility. The employer failed to notify the Division of its use.

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 2250.00

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

State of California
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Citation 1 Item 2 Type of Violation: **Regulatory**

OSH Appeals Board

5157. Permit-Required Confined Spaces.

(c) General requirements.

(2) If the workplace contains permit spaces, the employer shall inform exposed employees and other employees performing work in the area, by posting danger signs or by any other equally effective means, of the existence, location of and the danger posed by the permit spaces.

On and prior to 11/15/11 employer failed to post danger signs on the Let Down Tanks designated as permit required confined spaces.

Date By Which Violation Must be Abated:
Proposed Penalty:

05/28/2012
\$ 450.00

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Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

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Citation 1 Item 3 Type of Violation: General

OSH Appeals Board

3203. Injury and illness Prevention Program.

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

- (1) Identify the person or persons with authority and responsibility for implementing the Program.
- (2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.
- (3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

EXCEPTION: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

(A) When the Program is first established;

EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

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Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

- (B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and
- (C) Whenever the employer is made aware of a new or previously unrecognized hazard.
- (5) Include a procedure to investigate occupational injury or occupational illness.
- (6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

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

(7) Provide training and instruction:

(A) When the program is first established;

EXCEPTION: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.

(B) To all new employees;

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

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

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

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

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Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

On and prior to 11/15/11, employer failed to implement and maintain its Injury and Illness Prevention Program, including but not limited to:

1. Vista Paint Corp. failed to identify and evaluate hazards when a new substance was introduced into the workplace. Reference 3203(a)(4).
2. Vista Paint Corp. failed to take corrective actions to correct the hazard of using Methylene Chloride in the Let Down Tanks as a cleaner. Reference 3203(a)(6).

Date By Which Violation Must be Abated:	05/28/2012
Proposed Penalty:	\$ 840.00

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OSHA Appeals Board

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2012-R 3 D 1 -1708

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Company Name: VISTA PAINT CORPORATION
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Citation 2 Item 1 Type of Violation: **Serious**

OSH Appeals Board

CCR T8 5144, Respiratory Protection

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator. The Small Entity Compliance Guide contains criteria for the selection of a program administrator and a sample program that meets the requirements of this subsection. Copies of the Small Entity Compliance Guide will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210 (202-219-4667).

(1) In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable:

(A) Procedures for selecting respirators for use in the workplace;

(B) Medical evaluations of employees required to use respirators;

(C) Fit testing procedures for tight-fitting respirators;

(D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;

(E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators; (F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;

(G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;

(H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and

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Citation and Notification of Penalty

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(I) Procedures for regularly evaluating the effectiveness of the program.

On and prior to 11/15/2011, Employer failed to implement its written Respiratory Protection Plan, SOP 7.8, in that it provided and required use of 3M model 7513 half face air purifying respirators by employees in the paint making area without performing Fit Testing, Medical Evaluations, giving instructions in the proper use and cleaning of the respirator, or conducting regular evaluation of the effectiveness of the program..

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 11250.00

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Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

MAY 30 2012

JSH Appeals Board

Citation 3 Item 1 Type of Violation: Serious

5157. Permit Required Confined Spaces

(d) Permit-required confined space program (permit space program). Under the permit required confined space program required by subsection (c)(4), the employer shall:

(3) Develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, the following:

- (A) Specifying acceptable entry conditions;
- (B) Isolating the permit space;
- (C) Purging, inerting, flushing, or ventilating the permit space as necessary to eliminate or control atmospheric hazards;
- (D) Providing pedestrian, vehicle, or other barriers as necessary to protect entrants from external hazards; and
- (E) Verifying that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry.

On and prior to November 15, 2011, the employer failed to implement the means, procedures and practices necessary for safe permit space entry operations, including, but not limited to purging, flushing or ventilating the permit space to eliminate or control atmospheric hazards; and verifying that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry. This failure on November 15, 2011 resulted in the death of one employee and the serious injury of another employee who entered a confined space where Methylene Chloride was being used.

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 25000.00

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State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011-05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

OSH Appeals Board

Citation 4 Item 1 Type of Violation: Serious

5157. Confined Space Entry

(d) Permit-required confined space program (permit space program). Under the permit required confined space program required by subsection (c)(4), the employer shall:

(4) Provide the following equipment (specified in subsections (A) through (I), below) at no cost to employees, maintain that equipment properly, and ensure that employees use that equipment properly:

- (A) Testing and monitoring equipment needed to comply with subsection (d)(5);
- (B) Ventilating equipment needed to obtain acceptable entry conditions;
- (C) Communications equipment necessary for compliance with subsections (h)(3) and (i)(5);
- (D) Personal protective equipment insofar as feasible engineering and work practice controls do not adequately protect employees;
- (E) Lighting equipment needed to enable employees to see well enough to work safely and to exit the space quickly in an emergency;
- (F) Barriers and shields as required by subsection (d)(3)(D);
- (G) Equipment, such as ladders, needed for safe ingress and egress by authorized entrants;
- (H) Rescue and emergency equipment needed to comply with subsection (d)(9), except to the extent that the equipment is provided by rescue services; and
- (I) Any other equipment necessary for safe entry into and rescue from permit spaces.

On and prior to November 15, 2011, the employer failed to provide and ensure the proper use of testing and monitoring equipment needed to evaluate the permit space conditions; appropriate equipment needed for safe ingress and egress, such as ladders; and rescue and emergency equipment needed to safely rescue entrants from the confined space.

Date By Which Violation Must be Abated: 05/27/2012
Proposed Penalty: \$ 9000.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

MAY 30 2012

OSH Appeals Board

APPEAL FORM

2012-R 3 D¹ -1711

315526707

Inspection Number on Citation

VISTA PAINT CORPORATION

Employer Name on Citation

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 5 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

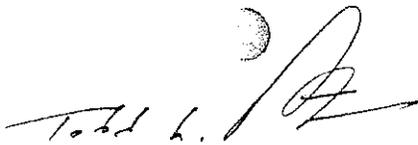
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Independent Employee Act, Employer Knowledge, Logical Time,

Vague Citation, Unequal Treatment, and all other affirmative defenses.

4.



(Signature of Employer or Employer's Representative)

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Todd L. Peterson

(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

(City)

(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

(Date)

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Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

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

OSH Appeals Board

5157. Confined Space Entry

(d) Permit-required confined space program (permit space program). Under the permit required confined space program required by subsection (c)(4), the employer shall:

(5) Evaluate permit space conditions as follows when entry operations are conducted:

(A) Test conditions in the permit space to determine if acceptable entry conditions exist before entry is authorized to begin, except that, if isolation of the space is infeasible because the space is large or is part of a continuous system (such as a sewer), pre-entry testing shall be performed to the extent feasible before entry is authorized and, if entry is authorized, entry conditions shall be continuously monitored in the areas where authorized entrants are working;

(B) Test or monitor the permit space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations, and

(C) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors.

On and prior to November 15, 2011, the employer failed to evaluate the permit space conditions by testing the permit space to determine if acceptable entry conditions exist before entry is initiated, and testing or monitoring the space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations.

Date By Which Violation Must be Abated:

05/28/2012

Proposed Penalty:

\$ 9000.00

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OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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APPEAL FORM

OSH Appeals Board

315526707

Inspection Number on Citation

2012-R 3 D 1 -1712

VISTA PAINT CORPORATION

Employer Name on Citation

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Employer Legal Name or DBA (Optional)

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2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

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CITATION NO(s): 6 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

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The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

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(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) Address where all communications from the Appeals Board will be sent;

San Francisco

CA

94111

(City)

(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

(Date)

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CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED
MAY 30 2012

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

OSH Appeals Board

5157. Confined Space Entry

(e) Permit system.

- (1) Before entry is authorized, the employer shall document the completion of measures required by subsection (d)(3) by preparing an entry permit.
- (2) Before entry begins, the entry supervisor identified on the permit shall sign the entry permit to authorize entry.

On and prior to November 15, 2011, the employer failed to document the completion of required entry procedures required by preparing an entry permit and having it signed by the entry supervisor prior to allowing entry of employees into a permit required confined space.

Date By Which Violation Must be Abated:	05/28/2012
Proposed Penalty:	\$ 11250.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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MAY 30 2012

OSH Appeals Board

APPEAL FORM

315526707

Inspection Number on Citation

2012-R 3 D | -1713

VISTA PAINT CORPORATION

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

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NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO:
Item No(s):

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The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

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(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

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(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

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State of California

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2000 East McFadden Avenue, Suite 122
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Inspection Number: 315526707

Inspection Dates: 11/15/2011 - 05/08/2012

Issuance Date: 05/10/2012

CSHO ID: Q1303

Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

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

OSH Appeals Board

5157. Confined Space Entry.

(g) Training.

(1) The employer shall provide training so that all employees whose work is regulated by this section acquire the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this section.

On and prior to November 15, 2011, the employer failed to provide training on Confined space entry to all employees involved in confined space activities.

Date By Which Violation Must be Abated:

05/28/2012

Proposed Penalty:

\$ 13500.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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MAY 30 2012

OSH Appeals Board

APPEAL FORM

2012-R 3 D | -1714

315526707

Inspection Number on Citation

VISTA PAINT CORPORATION

Employer Name on Citation

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

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CITATION NO(s): 8 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

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(Type or print name)

Attorney for Vista Paint Corporation

(Title)

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(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

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415 403-4482

tpeterson@behblaw.com

5/30/12

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CSHO ID: Q1303

Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

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

OSH Appeals Board

5157. Confined Space Entry.

(k) Rescue and emergency services. The employer shall ensure that at least one standby person at the site is trained and immediately available to perform rescue and emergency services.

On and prior to November 15, 2011, the employer failed to ensure that at least one standby person was immediately available to perform rescue and emergency services while employees entered a permit required confined space in which a regulated carcinogen had been in use.

Date By Which Violation Must be Abated:

05/28/2012

Proposed Penalty:

\$ 11250.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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RECEIVED

MAY 30 2012

OSH Appeals Board

APPEAL FORM

2012-R 3 D (-1715

315526707

Inspection Number on Citation

VISTA PAINT CORPORATION

Employer Name on Citation

Employer Legal Name or DBA (Optional)

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NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

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Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

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

OSH Appeals Board

CCR T8 5202. Methylene chloride.

(d) Exposure monitoring.

(1) Characterization of employee exposure.

(A) Where MC is present in the workplace, the employer shall determine each employee's exposure by either:

- 1. Taking a personal breathing zone air sample of each employee's exposure; or
- 2. Taking personal breathing zone air samples that are representative of each employee's exposure.

(B) Representative samples. The employer may consider personal breathing zone air samples to be representative of employee exposures when they are taken as follows:

1.8-hour TWA PEL. The employer has taken one or more personal breathing zone air samples for at least one employee in each job classification in a work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

2.Short-term exposure limits. The employer has taken one or more personal breathing zone air samples which indicate the highest likely 15-minute exposures during such operations for at least one employee in each job classification in the work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

3. Exception. Personal breathing zone air samples taken during one work shift may be used to represent employee exposures on other work shifts where the employer can document that the tasks performed and conditions in the workplace are similar across shifts.

(C) Accuracy of monitoring. The employer shall ensure that the methods used to perform exposure monitoring produce results that are accurate to a confidence level of 95 percent, and are:

(C) Accuracy of monitoring. The employer shall ensure that the methods used to perform exposure monitoring produce results that are accurate to a confidence level of 95 percent, and are:

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

State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707

Inspection Dates: 11/15/2011-05/08/2012

Issuance Date: 05/10/2012

CSHO ID: Q1303

Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

-
1. Within plus or minus 25 percent for airborne concentrations of MC above the 8-hour TWA PEL or the STEL; or
 2. Within plus or minus 35 percent for airborne concentrations of MC at or above the action level but at or below the 8-hour TWA PEL.

On and prior to 11/15/2011, Employer failed to determine the extent of employee exposure to Methylene Chloride, listed by MSDS content as 60-100% in the JASCO Premium Paint and Epoxy Remover. Employer had provided the product to its employees for use in Let Down Tank cleaning procedures for over 2 years. Employer listed the product as a hazardous substance on its hazardous chemical inventory list. On 11/15/11 one employee was hospitalized and a second employee was fatally asphyxiated by exposure to methylene chloride while working in a permit required confined space.

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 25000.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

RECEIVED

MAY 30 2012

APPEAL FORM OSH Appeals Board

315526707

Inspection Number on Citation

2012-R 3 D 1 -1716

VISTA PAINT CORPORATION

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 10 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

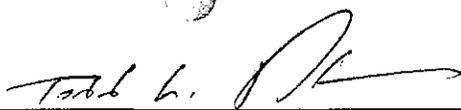
The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

Independent Employee Act, Employer Knowledge, Logical Time,

Vague Citation, Unequal Treatment, and all other affirmative defenses.

4.



(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Todd L. Peterson

(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

(City)

(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing.*
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item.** Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, Item Nos. 2, 5, and 8)
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative change address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011 - 05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED
MAY 30 2012

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

OSHA Appeals Board

5202. Methylene Chloride

(e) Regulated areas.

(1) The employer shall establish a regulated area whenever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

On and prior to November 15, 2011, the employer failed to establish a regulated area whenever an employee was assigned to clean the inside of a permit required confined space utilizing a Methylene Chloride containing product.

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 2000.00

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

RECEIVED
MAY 30 2012

OSH Appeals Board

APPEAL FORM

315526707

Inspection Number on Citation

VISTA PAINT CORPORATION

Employer Name on Citation

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

2012-R 3 D | -1717

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

CITATION NO(s): 11 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

Independent Employee Act, Employer Knowledge, Logical Time,

Vague Citation, Unequal Treatment, and all other affirmative defenses.

4.



(Signature of Employer or Employer's Representative)
{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Todd L. Peterson

(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

(City)

(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing.*
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item.** Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, Item Nos. 2, 5, and 8)
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
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- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

State of California
Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011-05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED
MAY 30 2012

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

OSH Appeals Board

5202. Methylene Chloride.

(f) Methods of compliance.

(1) Engineering and work practice controls. The employer shall institute and maintain the effectiveness of engineering controls and work practices to reduce employee exposure to or below the PELs except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-TWA PEL or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (g).

On and prior to November 15, 2011, the employer failed to institute engineering controls or work practices to reduce employee exposure to Methylene Chloride while employees use Methylene Chloride to clean the inside of permit required confined spaces.

Date By Which Violation Must be Abated: 05/28/2012
Proposed Penalty: \$ 2000.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

RECEIVED

MAY 30 2012

OSHA Appeals Board

APPEAL FORM

315526707

Inspection Number on Citation

2012-R 3 D | -1718

VISTA PAINT CORPORATION

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 12 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>
Independent Employee Act, Employer Knowledge, Logical Time,

Vague Citation, Unequal Treatment, and all other affirmative defenses.

4.



(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Todd L. Peterson

(Type or print name)

Attorney for Vista Paint Corporation

(Title)

500 Washington Street, Suite 700

(Address) {Address where all communications from the Appeals Board will be sent}

San Francisco

CA

94111

(City)

(State)

(Zip Code)

415 403-4482

tpeterson@behblaw.com

5/30/12

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

IMPORTANT INFORMATION

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- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
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- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707

Inspection Dates: 11/15/2011 - 05/08/2012

Issuance Date: 05/10/2012

CSHO ID: Q1303

Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED

MAY 30 2012

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

OSH Appeals Board

5202. Methylene Chloride

(g) Respiratory protection.

(3) Respirator selection.

(A) The employer must select, and provide to employees, appropriate atmosphere-supplying respirators specified in Section 5144(d)(3)(A)1.; however employers must not select or use half masks of any type because MC may cause eye irritation or damage.

On and prior to 11/15/11 employer failed to provide full-face atmosphere-supplying respirators to employees who entered a confined space where Methylene Chloride was being used. One employee was fatally injured and a second sustained critical, life threatening injury as a result.

Date By Which Violation Must be Abated:

05/28/2012

Proposed Penalty:

\$ 25000.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

MAY 30 2012

OSH Appeals Board

APPEAL FORM

315526707

Inspection Number on Citation

2012-R3 D1 -1719

VISTA PAINT CORPORATION

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2020 E ORANGETHORPE AVE

Address

FULLERTON, CA 92831

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 13 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>
Independent Employee Act, Employer Knowledge, Logical Time,

Vague Citation, Unequal Treatment, and all other affirmative defenses.

State of California
Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011 - 05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

RECEIVED
MAY 30 2012

Citation 13 Item 1 Type of Violation: **Serious**

OSH Appeals Board

5202. Methylene Chloride

(1) Employee information and training.

(3) In addition to the information required under ' 5194:

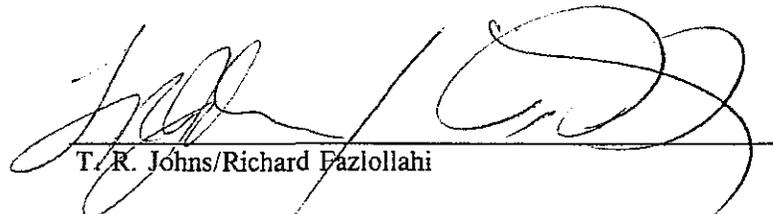
(A) The employer shall inform each affected employee of the requirements of this section and information available in its appendices, as well as how to access or obtain a copy of it in the workplace;

(B) Wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed the action level, the employer shall inform each affected employee of the quantity, location, manner of use, release, and storage of MC and the specific operations in the workplace that could result in exposure to MC, particularly noting where exposures may be above the 8-hour TWA PEL or STEL;

On and prior to 11/15/11 employer failed to provide employees working with a regulated carcinogen, methylene chloride, the specific training and information regarding use of methylene chloride within a confined space.

Date By Which Violation Must be Abated:
Proposed Penalty:

05/28/2012
\$ 11250.00


T.R. Johns/Richard Fazlollahi

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

State of California

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631; 4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705

Inspection Number: 315526707
Inspection Dates: 11/15/2011-05/08/2012
Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Inspection Nbr: 044-12



Citation and Notification of Penalty

Company Name: VISTA PAINT CORPORATION
Inspection Site: 2020 E ORANGETHORPE AVE, FULLERTON, CA 92831

Compliance Officer/District Manager

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

State of California
Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631:4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705
Phone: Fax: (714) 558-2035

RECEIVED

MAY 30 2012



OSH Appeals Board

Citation and Notification of Penalty

To:
VISTA PAINT CORPORATION

and its successors
2020 E ORANGETHORPE AVE
FULLERTON, CA 92831

Inspection Site:
2020 E ORANGETHORPE AVE
FULLERTON, CA 92831

Inspection Number: 315526707
Inspection Date(s): 11/15/2011 - 05/08/2012

Issuance Date: 05/10/2012
CSHO ID: Q1303
Optional Report #: 044-12
Reporting ID: 0950631

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 (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.

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, index code, reporting ID, 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/dos to access the secure payment processing site.

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

Cashier, Accounting Office

P. O. Box 420603

San Francisco, CA 94142-0603

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 and/or 161 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 serious and general violations is reduced by 50% on the presumption that the employer will correct the violations by the abatement date. **If the CAL/OSHA 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.**

Note: Return the CAL/OSHA 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705
Phone: (714) 558-4451 Fax: (714) 558-2035