

U.S. Department of Labor
Occupational Safety and Health Administration
Syracuse Area Office
3300 Vickery Road
North Syracuse, NY 13212
Phone: (315)451-0808 FAX: (315)451-1351
OSHA Website Address: <http://www.osha.gov>



Citation and Notification of Penalty

To:
HARBOR POINT MINERAL PRODUCTS, INC.
and its successors
Kevin Crane, General Manager
71 Wurz Avenue
Utica, NY 13502

Inspection Number: 314352543
Inspection Date(s): 05/24/2011- 10/27/2011
Issuance Date: 11/09/2011

Inspection Site:
71 Wurz Ave.
Utica, NY 13502

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 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. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

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 page 4 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 "US DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or 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 **each** violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification **must** be sent by you within **10 calendar days** of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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.

Internet Posting Notice: You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at "<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 11/09/2011. The conference will be held at the OSHA office located at Syracuse Area Office, 3300 Vickery Road, North Syracuse, NY, 13212 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

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

29 1910.134(a)(2): Respirators were not provided to the employee by the employer when such equipment was necessary to protect the health of the employee.

- a) **Bagging Operations, on or about 7/7/11: An employee overexposed to total dust while bagging bicarbonate was not provided with a respirator. See Citation 1, Item 1d, instance c for exposure levels.**

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	12/12/2011
Proposed Penalty:	\$ 3600.00



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Würz Ave., Utica, NY 13502

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

29 CFR 1910.134 (d)(1)(iii) The employer did not identify and evaluate the respiratory hazards in the workplace which includes a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the contaminant's chemical state and physical form:

- a) **Throughout the facility, on or about 5/11/11: An identification, evaluation and a reasonable estimate of respiratory hazards in the workplace was not performed for employees required to wear respirators during silo cleaning operations.**

Date By Which Violation Must be Abated: Corrected During Inspection



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

29 CFR 1910.1000(a)(2): Employee(s) were exposed to an airborne concentration of particulates not otherwise regulated (total dust) listed in Table Z-1 in excess of the 8 hour Time Weighted Average concentration of 15 milligrams per cubic meter (Mg/M3):

- a) **Beet pulp silo, on or about 6/22/11: A beet pulp silo cleaner was overexposed to total dust at an 8-hr. time weighted average of 62.3 Mg/M3, or 4.2 times the OSHA Permissible Exposure Limit (PEL) of 15 Mg/M3, for the 130 minute sampling period. A zero increment was included for the 350 minutes not sampled.**
- b) **Beet pulp silo, on or about 6/22/11: A beet pulp silo cleaner was overexposed to total dust at an 8-hr. time weighted average of 32.5 Mg/M3, or 2.2 times the OSHA Permissible Exposure Limit (PEL) of 15 Mg/M3, for the 130 minute sampling period. A zero increment was included for the 350 minutes not sampled.**
- c) **Bagging Operations, on or about 7/7/11: A bicarbonate bagger was overexposed to total dust at an 8-hr. time weighted average of 19.0 Mg/M3, or 1.3 times the OSHA Permissible Exposure Limit (PEL) of 15 Mg/M3, for the 480 minute sampling period.**

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated: 01/11/2012



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

29 CFR 1910.1000(e): Feasible administrative or engineering controls were not determined and implemented to achieve compliance with the limits prescribed in 29 CFR 1910.1000(a) through (d):

- a) **Bagging operations, on or about 7/7/11: Feasible administrative or engineering controls were not provided for employee overexposed to total dust while bagging bicarbonate. See Citation 1, Item 1d, instance c for sampling results.**

EFFECTIVE MEANS OF ABATEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- 1) Increasing the draw of the ventilation system currently in use.
- 2) Using a hepavac instead of shoveling during end of shift clean-up operations and when cleaning up spillage under bicarbonate bagging machine.
- 3) Splitting the operation between two or more employees.

Abatement will be multistep as follows:

Step 1: Evaluate control method and monitor for employee exposure. (30 days)

Step 2: Submit to Area Director a report detailing the method of abatement selected and providing a copy of monitoring results. (60 days)

Abatement documentation must be submitted for this item.

Date By Which Violation Must be Abated: 01/11/2012



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

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

29 CFR 1910.134(c)(1) Employer did not establish nor implement a written respiratory protection program with worksite specific procedures when respirators were necessary to protect the health of the employee or whenever respirators were required by the employer:

- a) **Throughout the facility, on or about 5/24/11: The written respirator program established in 2003 was not implemented for employees performing operations including, but not limited to, bicarbonate bagging and silo entries.**

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 3600.00



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

29 CFR 1910.134(e)(1) Employees required to wear negative pressure respirators were not provided with a medical evaluation to determine the employee's ability to use a respirator:

- a) Throughout the facility, on or about 5/11/11: Medical evaluations were not performed for employees required to wear air purifying half face respirators including, but not limited to Advantage air purifying respirators with P100 cartridges.
- b) Throughout the facility, on or about 5/24/11: Medical evaluations were not performed for employees required to wear air purifying half face respirators including, but not limited to MCRN952 N95 respirators.

Date By Which Violation Must be Abated: Corrected During Inspection

Citation 1 Item 2c 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:

- a) Throughout the facility, on or about 5/11/11: Respirator fit testing was not provided for employees required to wear Advantage air purifying respirators with P100 cartridges.
- b) Throughout the facility, on or about 5/11/11: Respirator fit testing was not provided for employees required to wear air purifying N95 half face respirators.

Date By Which Violation Must be Abated: Corrected During Inspection



Citation and Notification of Penalty

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

29 CFR 1910.134(k) The employer did not provide effective, comprehensive, understandable, and annual (or more often if necessary) training to employees who are required to use respirators:

- a) Throughout the facility, on or about 5/11/11: Respirator training was not provided for employees required to wear Advantage air purifying half face respirators with P100 cartridges.
- b) Throughout the facility, on or about 5/11/11: Respirator training was not provided for employees required to wear N95 air purifying half face respirators.

Date By Which Violation Must be Abated: **Corrected During Inspection**



Citation and Notification of Penalty

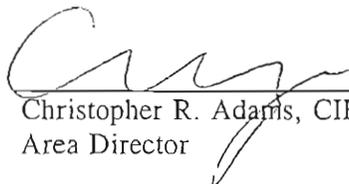
Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502

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

29 CFR 1910.1200(h)(1): Employees were not provided information and training as specified in 29 CFR 1910.1200(h)(1), (2), and (3) on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard was introduced into their work area:

- a) Throughout the facility, on or about 5/24/11: Information and training on the hazards of the chemicals and substances including, but not limited to, selenium, sodium bicarbonate and Rumensin premix used at the facility was not provided for temporary employees.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 3600.00


Christopher R. Adams, CIH, CSP
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
Syracuse Area Office
3300 Vickery Road
North Syracuse, NY 13212
Phone: (315)451-0808 FAX: (315)451-1351
OSHA Website Address: <http://www.osha.gov>



INVOICE/ DEBT COLLECTION NOTICE

Company Name: HARBOR POINT MINERAL PRODUCTS, INC.
Inspection Site: 71 Wurz Ave., Utica, NY 13502
Issuance Date: 11/09/2011

Summary of Penalties for Inspection Number 314352543

Citation 1, Serious	= \$	10800.00
TOTAL PROPOSED PENALTIES	= \$	10800.00

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.

OSHA does not agree to any restrictions or conditions 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 or conditions do not exist.

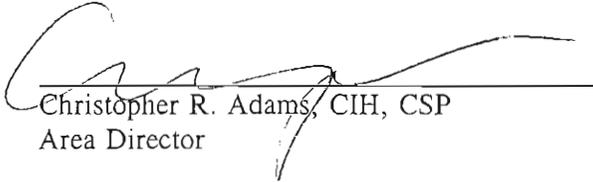
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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 5%. 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.



Christopher R. Adams, CIH, CSP
Area Director

11/9/2011

Date

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, New York 13212-4531
Telephone 315-451-0808
FAX (315) 451-1351
OSHA Website Address: <http://www.osha.gov>

(l)

11/09/11

HARBOR POINT MINERAL PRODUCTS, INC.
71 Wurz Avenue
Utica, NY 13502

Reference: Inspection # 314352543

Dear Roger Zehr:

In an effort to reduce the paperwork burden on employers, OSHA instituted the Abatement Verification Standard, 29 CFR 1903.19, in May of 1997. This standard allows the employer to provide a letter certifying, where indicated, that an item was corrected in lieu of providing copies of documents that verify abatement. The requirement for certification is indicated in the citation by the following language: **"Abatement certification must be submitted for this item."**

In some circumstances, documentation is required **in addition to** the certification letter. This documentation may include, for example, photographs, air sampling results, purchase orders, copies of cited programs. The requirement for documentation is indicated in the citation by the following language: **"Abatement documentation must be submitted for this item."**

These abatement responses must be prepared and received in this office by the date(s) indicated on the citation. Where the citation item reads, **"Corrected During Inspection,"** no further response is necessary.

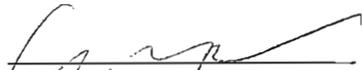
Copies of any abatement certification and documentation submitted to OSHA must be posted for those employees who were exposed to the hazard. This posting must remain posted for **three working days** after submitting the letter to OSHA.

An optional abatement certification letter has been enclosed for your convenience. Please return the response to us at the above address or fax number for the following items:

Citation 01 Item 1a, 1c, 1d

If you have any questions, please contact *the Assistant Area Director, Jeff Prebish* at extension 3034.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Adams', written over a horizontal line.

Christopher R. Adams, CIH, CSP
Area Director
Syracuse Area Office

encl.

ABATEMENT CERTIFICATION

HARBOR POINT MINERAL PRODUCTS, INC.
71 Wurz Avenue
Utica, NY 13502

Reference: Inspection # 314352543

In accordance with 29 CFR 1903.19, Abatement Verification, this document is being offered to certify that abatement has been accomplished for the citations noted below.

I certify that all employees and their representatives have been informed of the abatement action taken on these violations. Additionally, I attest that the information contained in this document is accurate.

Signature

Typed or Printed Name

Date

Citation # _____, Item # _____ was corrected on (date) _____ by (describe corrective action): _____

Citation # _____, Item # _____ was corrected on (date) _____ by (describe corrective action): _____

Abatement Certification Cont'd

Inspection # 314352543

Citation # 01, Item # 1a was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 01, Item # 1c was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 01, Item # 1d was corrected on (date) _____ by (describe corrective action): _____

_____.