Citation and Notification of Penalty

To: Austal USA, LLC
P. O. Box 1049
Mobile, AL 36602

Inspection Site:
1 Dunlop Drive
Mobile, AL 36602

Inspection Number: 1082517
Inspection Date(s): 08/03/2015 - 08/03/2015
Issuance Date: 01/20/2016

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you either call to schedule an informal conference (see paragraph below) or you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).
If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

**Penalty Payment** – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on [OSHA Penalty Payment Form](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 01/20/2016. The conference will be held by telephone or at the OSHA office located at 1141 Montlimar Drive, Suite 1006, Mobile, AL 36609 on ____________ at ____________. Employees and/or representatives of employees have a right to attend an informal conference.
CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Company Name: Austal USA, LLC
Inspection Site: 1 Dunlop Drive, Mobile, AL 36602
Issuance Date: 01/20/2016

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: U.S. Department of Labor – Occupational Safety and Health Administration, 1141 Montlimar Drive, Suite 1006, Mobile, AL 36609

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

________________________________________
Typed or Printed Name

________________________________________
Date

________________________________________
Title

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

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review.
Citation and Notification of Penalty

Company Name: Austal USA, LLC
Inspection Site: 1 Dunlop Drive, Mobile, AL 36602

Citation 1 Item 1 Type of Violation: Serious

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which was free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees are exposed to amputations, severe lacerations, and other injuries associated with being struck-by the toothed saw blade of a miller tool:

a) Facility wide: On or about August 3, 2015 and at times prior thereto, the employer allowed the use of an angle grinder with a toothed saw blade, also known as a miller tool, for shipbuilding related activities such as but not limited to chamfering, clipping, trimming, beveling, back gouging a weld, and cutting which exposed employees to amputations, severe lacerations, and other injuries associated with making contact with the toothed saw blade.

Among other methods, one feasible and acceptable means of abatement to correct this hazard includes but not limited to using tools designed for the shipbuilding related activities such as but not limited to the GTW series plate beveling tool provided by the same manufacturer.

Date By Which Violation Must be Abated: 03/08/2016
Proposed Penalty: $41,250.00

Joseph Roesler
Area Director

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

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INVOICE / 
DEBT COLLECTION NOTICE

Company Name: Austal USA, LLC
Inspection Site: 1 Dunlop Drive, Mobile, AL 36602
Issuance Date: 01/20/2016

Summary of Penalties for Inspection Number

Citation 1, Serious
TOTAL PROPOSED PENALTIES

1082517
$4125.00
$4125.00

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

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.
Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest**: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

**Delinquent Charges**: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

**Administrative Costs**: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

[Signature]

Joseph Roessler
Area Director

\[1/20/2016\]
Date
SAFETY NARRATIVE

Inspection Number 1082517

COVERAGE INFORMATION
Austral USA uses shipbuilding materials, equipment, tools purchased from local, state, and national manufacturers and retailers.

NATURE AND SCOPE
Check Applicable Boxes and Explain Findings:
☑ Complaint Items (No. 1004996)

Complaint Item 1: Employees cutting and grinding aluminum with Metabo angle grinders are exposed to amputation hazards due to the employer requiring employees to use grinders that have been modified to carbide tipped circular saw blades in that place of the abrasive grinding disks.

Findings: see citation

Complaint Item 2: Employees cutting and grinding aluminum with Metabo angle grinders are exposed to struck-by hazards due to the employer requiring employees to use grinders that have the auxiliary control handle removed.

Findings: At the time of this inspection the employer had a work rule, provided employee training the work rule, monitored and enforced the requirement to use the auxiliary control handle with the angle grinders to prevent known hazards such as but not limited to kickback. This was validated by the Compliance Officer’s observations and interviews during this inspection.

A violation of OSHA standards could not be substantiated at this time.

☑ EP for Amputations

NATURE AND SCOPE – UNUSUAL CIRCUMSTANCES (Mark X and explain all the apply:)
☑ Other

Comments: see opening and closing conference notes

OPENING CONFERENCE NOTES:
Chris Blankenfeld ................. EHS Manager
Timothy “Blake” Thomas ....... Health & Safety Coordinator
Matt Bauer ....................... Associate General Counsel
B7D .................................. CSHO, Savannah Area Office

On August 3, 2015, the CSHO entered the job site to investigate the alleged hazards of Complaint 1004996. The CSHO meet with Chris Blankenfeld, Timothy “Blake” Thomas, and Matt Bauer in the visitor check-in building. The CSHO introduced himself, presented his credentials, and explained the nature and scope of the inspection. The CSHO presented copies of the complaint and discussed them with the employer representatives. Chris Blankenfeld informed the CSHO that he was aware of the
issue with the “miller tool”/angle grinder with a toothed saw blade because the employer was currently in litigation over the complaint items. Not much more was discussed about the litigation, because the CSHO informed the employer representatives it had no bearing on his investigation of the alleged hazards. The CSHO conducted a walk around, observed the tool being used, and interviews.

Prior to August 26, 2015, the CSHO contacted and discussed the use of the toothed saw blade with both the manufacturer of the angle grinder and saw blade. While the saw blade was designed to minimize known hazards such as kickback, the saw blade manufacturer stated that the angle grinder manufacturer would have more information on the design and safe use of its tool. The angle grinder manufacturer informed the CSHO that as its operator’s manual states - it is not designed for use with toothed saw blades. The manufacturer even lists the recommended accessories such as a flexi-grinding disk, wire brush disk, and cutting blade. The CSHO researched and found similar information in the operator’s manuals of angle grinders of other manufacturers.

Subpoenas were issued to both Austal USA and Metabo in relationship to the miller tool. The information contained in the documents was considered in the development of this case file and the associated citation.

The CSHO discuss the inspection and applicable standards with representatives of Region IV’s Enforcement Program, Mobile Area Office, and B7D of the Savannah Area Office.

RECORDKEEPING PROGRAMS
(Other than 29 CFR 1904 requirements)
Does the employer have a record keeping program relating to any occupational health issues (monitoring, medical, training, respirator fit tests, ventilation measurements, etc.)?
☒ Yes ☐ No

Are any programs required by OSHA health standards?
☒ Yes ☐ No

COMPLIANCE PROGRAMS
(engineering controls, PPE, regulated areas, emergency procedures, compliance plans, etc.)
Address any relevant compliance efforts regarding potential health hazards covered by the scope of inspection.

PPE: the employer selected and provided personal protective equipment to protect employees while conducting activities using the angle grinder with a toothed saw blade, miller tool. The employer trained employees on the requirements to maintain and use the PPE. The employer monitors and enforces the use of PPE while using the miller tool. This was validated by the CSHO’s observations and interviews.

PERSONAL HYGIENE FACILITIES AND PRACTICES - NA
HAZARD COMMUNICATION PROGRAM - NA
ACCESS TO EXPOSURE & MEDICAL RECORDS
Comments: the employer provided the requested OSHA 300 logs within required time

FIRE PROTECTION AND EVACUATION PROCEDURES - NA
SYSTEMS SAFETY AND EMERGENCY RESPONSE - NA
RESPIRATOR PROGRAM - NA
EVALUATION OF EMPLOYER'S OVERALL SAFETY AND HEALTH PROGRAM

General Industry:
☒ Yes ☐ No Employer has a Safety & Health Program
☒ Yes ☐ No Written
☒ Yes ☐ No Copy Attached

Evaluation of Safety and Health Program
(0=Nonexistent 1=Inadequate 2=Average 3=Above average)

2 - Written S&H Program
2 - Communication to Employees
1 - Enforcement
1 - Safety Training Program
☐ Health Training Program
☐ Accident Investigation Performed
1 - Preventive Action Taken

Comments: the employer’s SHMS includes hazard assessment efforts, written policies and procedures, employee communication and training, monitoring and enforcement efforts. However, the tool selection, setup, and use of the angle grinders with toothed saw blades exposed employees to hazards associated with loss-of-control issues (e.g. kickback) while using the miller tools. There are other tools to accomplish the task as the employer’s safety program identifies.

CLOSING CONFERENCE NOTES:

On August 3, 2015 a closing conference was conducted on site with Chris Blankenfeld, Timothy “Blake” Thomas, and Matt Bauer present. The CSHO discussed his findings and need to further investigate the use of the angle grinder with a toothed saw blade. The CSHO informed the employer representatives that he would contact them again once he had completed research on the matter.

On August 26, 2015 a closing conference was conducted via phone with Chris Blankenfeld and Matt Bauer. The CSHO explained his findings with respect to the use of the angle grinder with a toothed saw blade. The CSHO explained that even though the employer referred to one of the activities being conducted using the angle grinder with a toothed saw blade as “trimming”, the CSHO stated it was beveling. The CSHO stated, as the employer’s safety program states, there are more appropriate tools to conduct this activity than the “miller tool”/angle grinder with a toothed saw blade. The CSHO explained a citation would be issued in accordance with OSHA’s protocols which can be found in the Field Operations Manual. The employer representatives did not have any questions or remarks during this phone conversation.

Were any unusual circumstances encountered such as, but not limited to, abatement problems, expected contest and/or negative employer attitude? If yes, explain below:
☒ Yes ☐ No

On August 31, 2015, the CSHO was informed that Chris Blankenfeld and Matt Bauer had called and
requested that he return their call. The CSHO called the number provided and made contact with Matt Bauer. Matt Bauer informed the CSHO that the employer felt it was important to share more information about the ongoing litigation concerning the angle grinder. Matt Bauer informed the CSHO that there were 4 plaintiffs (Austral USA employees, one of which was injured while using the angle grinder with the toothed saw blade) that were suing Austral USA, its President, its Operations Manager, its EHS Manager, and they were suing the angle grinder’s manufacturer - Metabo. Matt Bauer felt that the information provided by Metabo during the CSHO’s research might not have included the fact that Metabo Engineers visited Austral USA and help select and setup the angle grinder with a toothed saw blade for the uses the CSHO observed during this inspection. Matt Bauer stated he could provide evidence of Metabo’s involvement and approval of the selection, setup, and use of the angle grinder with a toothed saw blade.

On October 26, 2105 the CSHO called and discussed the inspection and subpoena respectively with representatives from Austral USA and Metabo. The CSHO stated the information requested in the subpoenas would be reviewed in consideration towards the previously discussed citation to Austral USA. The information did not change the status of the purposed citation.

19. Closing Conference Checklist (“x” as appropriate)
   - [X] Reviewed Hazards and Standards
   - [X] Discuss Employer Rights/Obligations
   - [X] Encouraged Informal Conference
   - [X] Offered Abatement Assistance
   - [X] Discussed Consultation Programs