

U.S. Department of Labor
Occupational Safety and Health Administration
1222 Spruce Street
Room 9.104
Saint Louis, MO 63103



Citation and Notification of Penalty

To:
KERRY, INC.
HCR2 Box 2560
Greenville, MO 63944

Inspection Number: 1393573
Inspection Date(s): 04/15/2019 - 09/25/2019
Issuance Date: 09/26/2019
Reply to the Attention: Strategic Team Leader

Inspection Site:
HCR2 Box 2560
Greenville, MO 63944

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

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

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

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling 314-425-4249. 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. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

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

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

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

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

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an

employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. 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 09/26/2019. The conference will be held by telephone or at the OSHA office located at 1222 Spruce Street, Room 9.104, Saint Louis, MO 63103 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1393573

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944
Issuance Date: 09/26/2019

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, 1222 Spruce Street, Room 9.104, Saint Louis, MO 63103**

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

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

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

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

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

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

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

Signature

Date

Typed or Printed Name

Title

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

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.132(d)(1): The employer did not assess the workplace to determine if hazards were present, or were likely to be present, which necessitated the use of personal protective equipment:

- a. The employer is failing to conduct a personal protective equipment (PPE) hazard assessment for employees who fight fires in the furnace room, including furnace room and dryer operators. Hazards that could require the use of PPE include, but are not limited to, inhalation of smoke, exposure to heat and hot surfaces, slipping on wet floors, and stepping on sharp objects.
- b. The employer is failing to conduct a PPE hazard assessment for employees, including furnace room and dryer operators, who access the furnace room roof to fight fires, blow off dust, and shovel off dust. Hazards that could require the use of PPE include, but are not limited to, inhalation of smoke, exposure to heat and hot surfaces, exposure to falls, exposure to eyes/face from flying objects, slipping on a wet roof, and abrasion to hands during shoveling.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$13260.00

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.156(b)(1): The employer did not prepare and maintain a statement or written policy that established the existence of a fire brigade; the basic organizational structure; the type, amount and frequency of training to be provided to fire brigade:

The employer is failing to protect employees from fire hazards during firefighting activities. On or about April 14, 2019, employees used 5/8 inch and 1 1/2 inch water lines in an attempt to extinguish a fire that had engulfed the furnace room and spread to the roof via exhaust fan #4. While the employer expected employees to fight fires, the employer did not develop and maintain a written policy on the basic organizational structure of a fire brigade, including training, the type, amount and frequency of training, the expected number of members in the fire brigade, and the functions to be performed by the fire brigade members. The written policy would be expected to address, training in firefighting techniques, fire fighting equipment to be used, and how and when to use it, personal protective equipment to be worn, and evaluation of fire hazard events, including when to call for professional assistance and when to evacuate. The employer had not made clear when to evacuate and when to fight fires, even though the company Fire Emergency Procedure in the Emergency Preparedness Plan stated that evacuation was mandatory when a fire spread beyond "small and confined."

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$13260.00

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.156(c)(1): The employer did not provide training and education commensurate with those duties and functions that fire brigade members were expected to perform:

The employer is failing to protect employees from fire hazards during firefighting activities. On or about April 14, 2019, employees used 5/8 inch and 1 1/2 inch water lines in an attempt to extinguish a fire that had engulfed the furnace room and spread to the roof via exhaust fan #4. While the employer provided training commensurate with the use of fire extinguishers for small and confined fires, it failed to provide adequate training to employees expected to fight larger fires using equipment other than fire extinguishers and it failed to provide more comprehensive training to brigade leaders and instructors.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$13260.00



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.156(e)(1): The employer did not provide and assure the use of protective clothing which complied with the requirements of this paragraph:

The employer is failing to protect employees from fire hazards during firefighting activities. On or about April 14, 2019, employees used 5/8 inch and 1 1/2 inch water lines in an attempt to extinguish a fire that had engulfed the furnace room and spread to the roof via exhaust fan #4. Employees donned flame resistant (FR) clothing and respiratory protection. However, the employer did not provide body protection that met the requirements of NFPA No. 1971-1975 pursuant to part (e)(3) of 1910.156, did not provide either fully extended boots or protective shoes worn in combination of protective pants (NFPA No. 1971-1975) pursuant to part (e)(2) of 1910.156, or gloves that met the requirements of NIOSH 1976 publication, "The Development of Criteria for Fire Fighting Gloves" pursuant to part (e)(4) of 1910.156.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$13260.00

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.156(f)(1)(ii): Approved self-contained breathing apparatus with full-facepiece, or with approved helmet or hood configuration, were not provided to and worn by fire brigade members while working inside buildings or confined spaces where toxic products of combustion or an oxygen deficiency may be present:

The employer is failing to protect employees from fire hazards during firefighting activities. On or about April 14, 2019, employees used 5/8 inch and 1 1/2 inch water lines in an attempt to extinguish a fire that had engulfed the furnace room and spread to the roof via exhaust fan #4. The employer failed to provide the self-contained breathing apparatus required to be worn by fire brigade members when fighting fires inside the furnace room. The furnace room was a space inside a building where toxic products of combustion or an oxygen deficiency may be present.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$13260.00

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

Inspection Number: 1393573
Inspection Date(s): 04/15/2019 - 09/25/2019
Issuance Date: 09/26/2019



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.169(b)(3)(iv): Safety valve(s) on compressed air receiver(s) were not tested at frequently regular intervals to determine if they were in good operating condition:

The employer is failing to prevent employee exposure to struck-by hazards. The employer did not test safety relief valves at frequent and regular intervals on air compressor receivers that it uses in the facility including but not limited to the Manchester 400-gallon tank and the PUMA Industrial Compressor air tank.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$9472.00

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.303(b)(7)(iv): There were damaged parts that could adversely affect safe operation or mechanical strength of the equipment, such as parts that were broken, bent, cut, or deteriorated by corrosion, chemical action, or overheating:

The employer is failing to prevent employee exposure to electrical hazards. On or about 4/22/19, an electrical conduit line near the mixing and blending area was damaged in that the joint between the conduit and outlet box was not connected resulting in the conduit not being secured. Employees use the 120V duplex outlet three to four times per week to power various equipment to include a power washer.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$5683.00



Citation and Notification of Penalty

Company Name: KERRY, INC.

Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.1200(g)(5): The chemical manufacturer, importer or employer did not ensure that the information provided accurately reflects the scientific evidence used in making the hazard classification:

The employer, who is manufacturing a chemical product for sale as a manufacturer, is failing to provide information in their safety data sheets. The safety data sheet on Wood Tar, CAS No. 91722-33-7, did not include information, such as, but not limited to: that the product is considered hazardous by the OSHA Hazard Communication Standard (Section 2, OSHA/HCS status), no signal word was provided (Section 2, Signal word), no hazard statement was provided (Section 2, Hazard statements), no pictogram was provided (Section 2), flammability was not provided (Section 9), no warning about reactivity to an ignition source (Section 10). The product is combustible and the SDS did not list it as such in Section 16.

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$9472.00



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

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

29 CFR 1910.28(b)(13)(i): When work was performed less than 6 feet (1.6 m) from the roof edge, the employer did not ensure each employee was protected from falling by a guardrail system, safety net system, travel restraint system, or personal fall arrest system.

The employer is failing to protect employees from fall hazards. The guardrail system that existed along the perimeter of the furnace building roof was removed in approximately January of 2018. The employer failed to replace the guardrail until sometime after April 14, 2019 when a fatal fall from the roof occurred. During this period, the employer allowed employees to access the roof to perform various work tasks, such as dust cleanup, maintenance work, and extinguishing fires. To perform these tasks employees performed work less than 6 feet from the roof edge without any form of fall protection. On April 14, 2019, an employee attempted to extinguish a fire on exhaust fan #4 on the north side of the furnace building roof. While performing this work, the employee was less than 6 feet from the unprotected roof edge and without any form of fall protection. While fighting the fire, the employee fell approximately 25 feet to the pavement below. The employee suffered fatal injuries as a result of the fall. At least three months before the fall, the employer had been notified that a guardrail needed to be installed in order to protect employees accessing the roof and to comply with 29 CFR 1910.28(b)(13).

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/23/2019
Proposed Penalty:	\$132598.00

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



Citation and Notification of Penalty

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944

Citation 3 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1910.134(d)(3)(i): The employer did not provide a respirator that was adequate to protect the health of the employee under routine and reasonably foreseeable emergency situations:

The employer is failing to prevent employee exposure to respiratory hazards during transfer of ascetic acid into an approximate 350 gal. tank. The employer failed to provide employees with the appropriate acid gas cartridge (GVP-442 or GVP 443) for the 3M GVP powered air purifying respirator (PAPR). The employer provided employees with a cartridge that was appropriate for organic vapors (GVP-441).

Abatement documentation is required for this violation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 10/23/2019
Proposed Penalty: \$0.00

A handwritten signature in black ink, appearing to read "W. McDonald", written over a horizontal line.

 **William McDonald, CSP**
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1222 Spruce Street
Room 9.104
Saint Louis, MO 63103



INVOICE / DEBT COLLECTION NOTICE

Company Name: KERRY, INC.
Inspection Site: HCR2 Box 2560, Greenville, MO 63944
Issuance Date: 09/26/2019

Summary of Penalties for Inspection Number	1393573
Citation 1, Serious	\$90927.00
Citation 2, Willful	\$132598.00
Citation 3, Other-than-Serious	\$0.00
TOTAL PROPOSED PENALTIES	\$223525.00

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

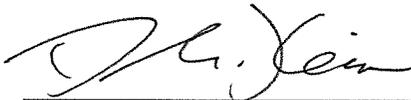
original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

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.



William McDonald, CSP

Area Director



Date