

SETTLEMENT AGREEMENT

The Commissioner of Labor (hereinafter referred to as "Commissioner") and Contech Construction (hereinafter referred to as "Employer") hereby agree as follows:

~~The Commissioner amends the Safety Order(s) and Notification(s) of Penalty, IOSHA Inspection No. 317035087 issued to the Employer on January 8, 2014 in the following manner:~~

SAFETY ORDER 01:

Item 1:	Upheld. Abatement completed. Penalty reduced to \$500.
Item 2:	Upheld. Abatement Completed. Penalty reduced to \$500
Item 3a and 3b:	Deleted.
Item 4:	Upheld.
Item 5:	Upheld.
Item 6:	Reduced to Nonserious. Penalty is reduced to \$500.
Item 7:	Deleted.

SAFETY ORDER 02:

Item 1:	Deleted.
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**The TOTAL AGREED PENALTY is \$4500.00
This is a 70% reduction of penalty.**

THE EMPLOYER IS SATISFIED WITH THE AMENDMENTS STATED ABOVE AND ACCORDINGLY WAIVES ITS RIGHT TO FILE A NOTICE OF CONTEST OF THE SAFETY ORDER(S) AND NOTIFICATION(S) OF PENALTY AS AMENDED AND AGREES TO WITHDRAW ANY PREVIOUSLY FILED NOTICES OF CONTEST IN THIS MATTER.

Upon full execution of this Settlement Agreement ("Agreement") the Employer will post this Agreement for three (3) working days or until abatement is completed, whichever period is longer.

The total AGREED PENALTY is due and payable within fifteen (15) working days from the Employer's execution of this Agreement. The Employer further agrees that if the AGREED PENALTY is not paid within fifteen working days from the Employer's execution of this Agreement, that the full amount of the penalty initially assessed against the Employer in the Safety Order(s) and Notification(s) of Penalty which are the subject of this Agreement is due and payable immediately.

The Safety Order(s) and Notification(s) of Penalty are, and shall be, herein a final and enforceable Order of the Board of Safety Review.

Except for this Agreement, and IOSHA matters arising out of this Agreement, and any other subsequent IOSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by Employer shall be deemed an admission by Employer of the allegations contained within the Safety Order(s) and Notification(s) of Penalty. The agreements, statements, findings and actions taken herein are made in order to compromise and settle this IOSHA matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

Contech Engineered Solutions, LLC

By: *DL Woody*

Title: *Director of EHS*

Date: *2/3/2014*

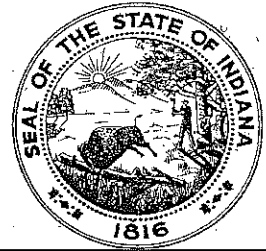
COMMISSIONER OF LABOR

By: *[Signature]*

Title: *Director*

Date: *2/3/14*

Indiana Department of Labor
Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2751
Phone: 317/232-1979 Fax: 317/233-8509



Certified mail # 91 7190 0005 2720 0032 / 401 1-8-14 jto

Safety Order and Notification of Penalty

To:
Contech Engineered Solutions, LLC,
and its successors
9025 Centre Point Drive, Suite 400
West Chester, OH 45069-4984

Inspection Number: 317035087
Inspection Date(s): 07/16/2013 - 11/20/2013
Issuance Date: 01/08/2014

Inspection Site:

200 John R. Williams Ave.
Mitchell, IN 47446-3565

The violation(s) described in this Safety Order 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.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days

on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAS - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the

prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

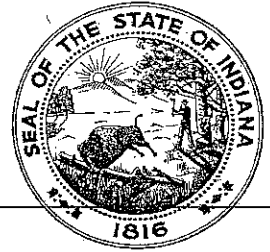
Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

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 Indiana Department of Labor/IOSHA at the address shown above.

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 Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 01/08/2014. The conference will be held at the IOSHA office located at 402 West

Washington Street, Room W195, Indianapolis, IN 46204 on _____ at

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

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

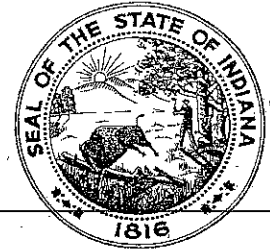
Inspection 317035087

Number:

Inspection Dates: 07/16/2013 -

11/20/2013

Issuance Date: 01/08/2014



Safety Order and Notification of Penalty

Company Name: Contech Engineered Solutions, LLC
Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565

Safety Order 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.22(a)(2): Floor(s) of workroom(s) were not maintained in a clean and, so far as possible, a dry condition:

Hel-Cor area - Employees were exposed to slip and fall hazards on a regular and routine basis due to coolant products such as, but not limited to, Alchemy Cut PF Bio being spilled onto the work floor.

Date By Which Violation Must be Abated: 02/04/2014
Proposed Penalty: \$1,500.00

Safety Order 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.22(c): Cover(s) and/or guardrail(s) were not provided to protect personnel from the hazards of falling into a pit of molten asphalt:

Asphalt building - Employees were potentially exposed to a fall hazard into a pit of molten asphalt not equipped with standard guardrails. Employees worked up to 10 hours a day around the approximately 10.5 feet wide, 42 feet long, and 10.8 feet deep pit that had sidewalls ranging from 28 inches to 36 inches tall.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

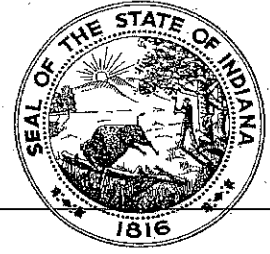
Inspection 317035087

Number:

Inspection Dates: 07/16/2013 -

11/20/2013

Issuance Date: 01/08/2014



Safety Order and Notification of Penalty

Company Name: Contech Engineered Solutions, LLC
Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565

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

Safety Order 1 Item 3a Type of Violation: **Serious**

29 CFR 1910.95(g)(7)(i): Each employee's annual audiogram was not compared to that employee's baseline audiogram to determine if the audiogram was valid and if a standard threshold shift had occurred:

Production area - The results of annual audiograms performed on November 27, 2012, and at times prior to, were not compared to the employee's baseline audiogram. Up to and including three employees experienced a standard threshold shift in either one or both ears when results of annual audiograms performed on November 27, 2012, were compared to the employee's respective baseline audiograms.

Date By Which Violation Must be Abated: 02/04/2014
Proposed Penalty: \$2,500.00

Safety Order 1 Item 3b Type of Violation: **Serious**

29 CFR 1910.95(g)(8)(i): Employees were not informed in writing and within 21 days of the determination that a comparison of the annual audiogram with the baseline audiogram indicated a standard threshold shift had occurred:

- a) Facility - An employee with a standard threshold shift of 10.33 decibels and an annual threshold average of 33.33 decibels in the left ear along with a standard threshold shift of 13.67 decibels and an annual threshold average of 35.00 decibels in the right ear was notified in writing of the standard threshold shift in the left ear, but not the right ear.
- b) Facility - An employee with a standard threshold shift of 15.33 decibels and an annual threshold average of 26.67 decibels in the left ear was not notified in writing of the standard threshold shift.

Date By Which Violation Must be Abated: 02/04/2014

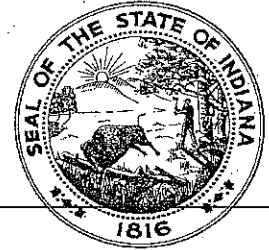
Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 317035087

Inspection Dates: 07/16/2013 -
11/20/2013

Issuance Date: 01/08/2014



Safety Order and Notification of Penalty

Company Name: Contech Engineered Solutions, LLC
Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565

Safety Order 1 Item 4 Type of Violation: Serious

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

Facility - No respirator use medical evaluations were performed for employees who voluntarily wore North 4200W Series tight-fitting air purifying respirators with N95 filters up to ten hours daily when welding.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$1,500.00

Safety Order 1 Item 5 Type of Violation: Serious

29 CFR 1910.254(d)(9)(iii): Cables with damaged insulation or exposed bare conductors were not replaced:

Slotted drain area - Up to and including four employees used MIG welding equipment to such as, but not limited to, a Lincoln Electric CV-300 (S/N 01980408449) and a Lincoln Arc Welder Idealarc R3-600 both with damaged grounding cable insulation up to 10 hours daily.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$1,500.00

Safety Order 1 Item 6 Type of Violation: Serious

29 CFR 1910.303(b)(2): Listed or labeled electrical equipment was not used or installed in accordance with instructions included in the listing or labeling:

Production area - Production area - A 440 Volt breaker box, accessed by employees on a regular and routine basis for facility lighting, had breakers taped in the on or closed position which prevented tripping in the event of an overload creating both a fire and shock hazard.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

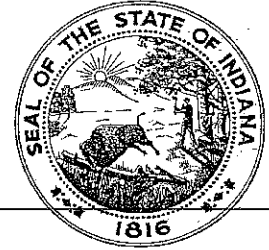
Inspection 317035087

Number:

Inspection Dates: 07/16/2013 -

11/20/2013

Issuance Date: 01/08/2014



Safety Order and Notification of Penalty

Company Name: Contech Engineered Solutions, LLC

Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565

Safety Order 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.1200(h)(3)(ii): Employee training did not include the physical, health, simple asphyxiation, combustible dust, and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area:

Asphalt coating - Employees who used hazardous products such as, but not limited to, lime dust and base asphalt up to ten hours daily were not trained on the physical and health hazards associated with these products.

Date By Which Violation Must be Abated: 02/04/2014

Proposed Penalty: \$2,000.00

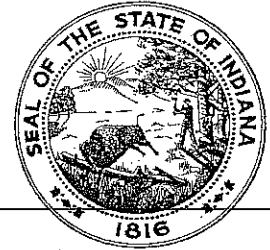
Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 317035087

Inspection Dates: 07/16/2013 -
11/20/2013

Issuance Date: 01/08/2014



Safety Order and Notification of Penalty

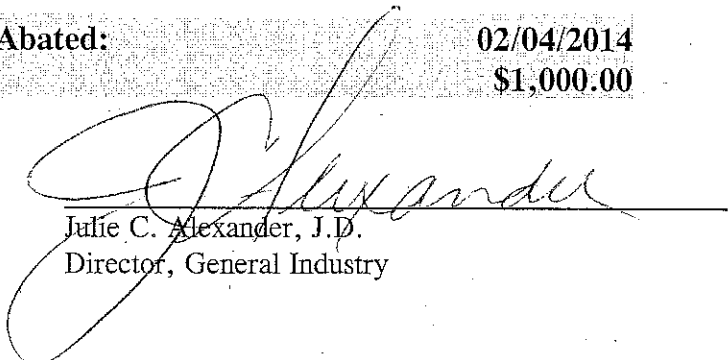
Company Name: Contech Engineered Solutions, LLC
Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565

Safety Order 2 Item 1 Type of Violation: **Nonserious**

29 CFR 1904.10(a): An employee whose hearing test (audiogram) revealed the employee experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level was 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, was not recorded as a hearing loss injury on the OSHA 300 Log:

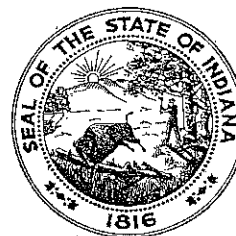
Facility - Hearing loss suffered in 2012 by three employees who had a STS ≥ 10 decibels and an annual threshold average ≥ 25 decibels in one or both ears was not recorded as an injury on the 2012 OSHA 300 log. The first employee had a STS of 10.67 decibels and an annual threshold average of 36.67 decibels in the left ear. The second employee had a STS of 10.33 decibels and an annual threshold average of 33.33 decibels in the left ear along with a STS of 13.67 decibels and an annual threshold average of 35.00 decibels in the right ear. The third employee had a STS of 15.33 decibels and an annual threshold average of 26.67 decibels in the left ear.

Date By Which Violation Must be Abated: 02/04/2014
Proposed Penalty: \$1,000.00


Julie C. Alexander, J.D.
Director, General Industry

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2751
Phone: 317/232-1979; Fax: 317/233-8509



INVOICE/DEBT COLLECTION NOTICE

Company Name: Contech Engineered Solutions, LLC
Inspection Site: 200 John R. Williams Ave., Mitchell, IN 47446-3565
Issuance Date: 01/08/2014

Summary of Penalties for Inspection Number 317035087

Safety Order 01, Serious	=	\$14,000.00
Safety Order 02, Nonserious	=	\$1,000.00
<u>Total Proposed Penalties</u>		\$15,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Visit <https://payingov.com/dol/> to make payment with a debit/credit card. Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

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

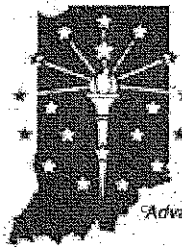
Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

Julie C. Alexander
Julie C. Alexander, J.D.
Director, General Industry

Date

1/8/13
JAC



Indiana

Department of Labor

Advancing the safety, health and prosperity of Hoosiers in the workplace

MICHAEL R. FENCE, GOVERNOR
Rick J. Ruble, Commissioner

402 West Washington Street, Room W195
Indianapolis, Indiana 46204-2751

Phone: (317) 232-2655
Fax: (317) 233-3790

January 8, 2014

Mr. Joe Behne
Contech Construction Products, Inc.
200 John R. Williams Avenue
Mitchell, IN 47446

RE: Inspection #317059087

Dear Mr. Behne:

A planned inspection of the Contech Construction Products, Inc. facility located at 200 John R. Williams Avenue, Mitchell, Indiana 47446 was initiated on July 16, 2013. The facility manufactured corrugated pipe for sanitary, drainage, and irrigation applications.

During the walkthrough on August 7, 2013, an 8-gauge corrugated pipe was being cut to length in the IMW-6 Hel-Cor area. The sparks created during the cutting process bounced off the ceiling and nearby walls. The ceiling insulation above the saw table was visibly damaged. Employees stated the ceiling damage was a result of the sparks, but the ceiling has never caught fire. Fire extinguishers were located throughout the facility. Furthermore, an oxygen-acetylene torch and compressed gas cylinders were stationed 16 feet from the cutting table. The sparks generated while cutting 8-gauge corrugated pipe almost reached the compressed gas cylinders. Cylinders must be kept far enough away from the actual cutting or welding operation so that sparks will not reach them, or fire-resistant shields must be provided.

Additionally, two employees perform asphalt coating operations for up to 10 hours daily, as needed. The asphalt base is heated inside a pit to approximately 400 degrees Fahrenheit. Employees load corrugated metal pipe onto a crane and dip the pipe into the pit with molten asphalt. Employees stand six to seven feet away when the pipe is lowered into the pit. The asphalt-coated pipe is then laid on the ground to dry and fans are used to speed up the asphalt drying process. Employees wear a hard hat, safety glasses, face shield, long sleeves, leather gloves, and metatarsal boots when performing asphalt coating operations. The Occupational Safety & Health Administration (OSHA) has not designated a permissible exposure limit (PEL) for asphalt fumes; however, the American Conference of Governmental Industrial Hygienists (ACGIH) does have a Threshold Limit Value (TLV) for asphalt fumes. In year 2000, ACGIH reduced the 8-hour time weighted average TLV for asphalt fumes from 5 mg/m³ to 0.5 mg/m³ based on increases in mucous membrane and eye irritation found in studies. Personal air monitoring results showed an asphalt coating employee was exposed to asphalt fumes at an 8-hour TWA of 0.649 mg/m³ on the sampling date of October 25, 2013, which is greater than the current ACGIH TLV. The exposure is derived from a 433 minute sampling period with zero exposure assumed during the 47 minutes not sampled.

An OSHA standard does not apply to this situation and it is not considered appropriate at this time to invoke IC 22-8-1.1. Section 2, the General Duty of the Indiana Code, thus no citation will be issued for the hazards associated with exposure to potential fire hazards and asphalt fumes. However, in the interest of

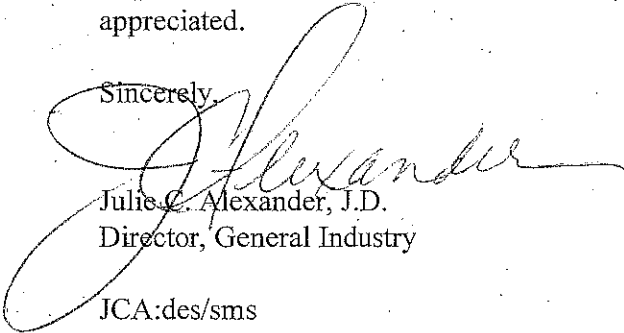
workplace safety and health, I recommend you take the following steps voluntarily to eliminate or reduce employee exposure to potential fire hazards and asphalt fumes:

1. Remove combustible material from around the saw tables in the Hel-Cor area or install fire-resistant shields or guards to prevent ignition.

2. Implement feasible engineering and administrative controls to reduce employee exposure to asphalt fumes to levels below the ACGIH TLV of 0.5 mg/m³. For example, install a local exhaust ventilation unit to draw asphalt fumes away from employees and implement employee job rotation or require employees to stand farther away from the asphalt pit. Lastly, use personal protective equipment where engineering and administrative controls do not reduce employee exposure to levels below the ACGIH TLV of 0.5 mg/m³.

Free, confidential occupational safety and health assistance can be obtained through the Indiana Department of Labor's INSafe division at (317) 351-7190. Your interest in workplace safety and health is appreciated.

Sincerely,



Julie C. Alexander, J.D.
Director, General Industry

JCA:des/sms

certified mail # 917190 0005 2720 0032 1461
1-8-14 jca