

SETTLEMENT AGREEMENT

The Commissioner of Labor (hereinafter referred to as "Commissioner") and Santarossa Mosaic and Tile Company Incorporated (hereinafter referred to as "Employer" or "ER") hereby agree as follows:

The Commissioner amends the Safety Order(s) and Notification(s) of Penalty IOSHA Inspection No. 318116290 issued to the Employer on December 11, 2019 in the following manner:

SAFETY ORDER 01:

Item 1a:	<u>Upheld</u>	. Penalty <u>\$2,000.00</u>	. Abatement <u>2/16/19</u>
Item 1b:	<u>Upheld</u>	. Penalty <u>\$0.00</u>	. Abatement <u>2/16/19</u>
Item 2:	<u>Upheld</u>	. Penalty <u>\$0.00</u>	. Abatement <u>2/16/19</u>
Item 3a:	<u>Upheld</u>	. Penalty <u>\$2,000.00</u>	. Abatement <u>2/16/19</u>
Item 3b:	<u>Upheld</u>	. Penalty <u>\$0.00</u>	. Abatement <u>2/16/19</u>
Item 4:	<u>Upheld</u>	. Penalty <u>\$2,000.00</u>	. Abatement <u>2/16/19</u>
Item 5a:	<u>Upheld</u>	. Penalty <u>\$2,000.00</u>	. Abatement <u>2/16/19</u>
Item 5b:	<u>Upheld</u>	. Penalty <u>\$0.00</u>	. Abatement <u>2/16/19</u>
Item 5c:	<u>Upheld</u>	. Penalty <u>\$0.00</u>	. Abatement <u>2/16/19</u>

In consideration of the above amendments, the Employer:

1. Safety Order 01, Item 2 will be grouped with Item 1 for settlement purposes. All other items will have the penalty reduced by 50% pending receipt of a complete written methylene chloride program compliant with 29 CFR 1910.1052 submitted to IOSHA within the agreed abatement period to include employee training records per the standard. The abatement period will be extended 30 days from the original abatement date for completion of the written program and training.

The TOTAL AGREED PENALTY is \$ 8,000.00

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.

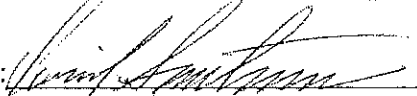
Upon full execution of this Settlement Agreement ("Agreement") the Employer will post this Agreement for three (3) working days or until abatement is completed, whichever period is longer.

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


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.

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.

Santarossa Mosaic and Tile Company

By: 
Title: President
Date: 01/03/20

COMMISSIONER OF LABOR

By: 
Title: SUPERVISOR
Date: 1.3.20

*CDI denotes that abatement was Completed During Inspection.
Note: EE refers throughout the document to Employee

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



Safety Order and Notification of Penalty

To:
Santarossa Mosaic and Tile Company Incorporated
and its successors
PO Box 1107
Indianapolis, IN 46218

Inspection Number: 318116290
CSHO ID: W7079
Optional Report No.: 2143-20
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019

Inspection Site:
1025 East 7th Street #111
Bloomington, IN 47405

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 and proof of abatement must be sent to the email address: AbatementGI@dol.in.gov 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 be sent to the email address: AbatementGI@dol.in.gov 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 sending the Petition to AbatementGI@dol.in.gov. 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 and sent to the email address AbatementGI@dol.in.gov. 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 via email at AbatementGI@dol.in.gov, 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 12/11/2019. 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
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

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

Safety Order 01 Item 001a Type of Violation: **Serious**

29 CFR 1910.1052(d)(1)(i): Where methylene chloride was present in the workplace, the employer did not determine each employee's exposure: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Employee air sampling/monitoring was not conducted to ensure that airborne concentrations of Methylene Chloride (60-100% in Safety Klean) were kept below applicable exposure limits during the chemical stripping process to renovate wall and floor tiling.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 001b

Type of Violation: **Serious**

29 CFR 1910.1052(d)(1)(i)(B): The employer did not determine each employee's exposure by taking personal breathing zone air samples that are representative of each employee's exposure: Note: This paragraph does not apply to conditions described in 1910.1052(d)(2)(i) - (iii). (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Personal breathing zone sampling to determine employee exposure to Methylene Chloride (60-100% in Safety Klean) was not performed for the wall and floor tile renovation project.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 002

Type of Violation: **Serious**

29 CFR 1910.1052(g)(3)(i): The employer did not select and provide to employees, the appropriate atmosphere-supplying respirator specified in 29 CFR 1910.134(d)(3)(i)(A) and selected or used half masks: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers - Employees who used Safety Klean (60-100% Methylene Chloride) wore N95 filtering facepiece respirators for a wall and floor tile renovation project.

Date By Which Violation Must Be Abated: 1/16/2020
Proposed Penalty: \$4,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

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

Safety Order 01 Item 003a Type of Violation: **Serious**

29 CFR 1910.1052(h)(1): Where needed to prevent methylene chloride induced skin or eye irritation, the employer did not provide clean protective clothing and equipment resistant to methylene chloride, at no cost to the employee, and/or did not ensure that each affected employee used it: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Employees who used Safety Klean (60-100% Methylene Chloride) did not have chemical resistant protective clothing but wore clothing such as, but not limited to: jeans and short sleeved t-shirts, while performing a wall and floor tile renovation project.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 003b Type of Violation: **Serious**

29 CFR 1910.1052(h)(2): The employer did not clean, launder, repair and replace all protective clothing and equipment required by 29 CFR 1910.1052(h) as needed to maintain their effectiveness:
(Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Clothing such as, but not limited to; jeans and t-shirts, were worn home and laundered by employees who used Safety Klean Fast Acting Stripper (60-100% Methylene Chloride) to renovate wall and floor tiling.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 004

Type of Violation: **Serious**

29 CFR 1910.1052(i)(2): It was reasonably foreseeable that an employee's eyes may contact solutions containing 0.1 percent or greater methylene chloride and the employer did not provide appropriate eyewash facilities within the immediate work area for emergency use: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers - Adequate eyewash facilities that allowed for continuous flushing for at least 15 minutes were not provided in the immediate work area for employees who used hazardous chemical products such as, but not limited to; SureKlean Fast Acting Stripper, which contained 60-100% Methylene Chloride to renovate floor and wall tiling.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

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

Safety Order 01 Item 005a Type of Violation: **Serious**

29 CFR 1910.1052(k)(1)(ii): In classifying the hazards of MC at least the following hazards are to be addressed: Cancer, cardiac effects (including elevation of carboxyhemoglobin), central nervous system effects, liver effects, and skin and eye irritation: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – The hazard communication program did not address the health hazards, such as, but not limited to; cancer, cardiac effects, and skin and eye irritation for employees who used Safety Klean Fast Acting Stripper (60-100% Methylene Chloride) for the process of deglazing wall and floor tiling.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 005b

Type of Violation: **Serious**

29 CFR 1910.1052(k)(1)(iii): Employers shall include Methylene Chloride in the hazard communication program established to comply with the Hazard Communication Standard (§1910.1200). Employers shall ensure that each employee has access to labels on containers of Methylene Chloride and to safety data sheets, and is trained in accordance with the requirements of Hazard Communication Standard and paragraph (l) of this section: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Methylene Chloride as contained in Safety Klean (60-100% Methylene Chloride) was not addressed in the written hazard communication program nor in employee training on the hazards of the chemicals used for a floor and wall tile renovation project.

Date By Which Violation Must Be Abated: 1/16/2020
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318116290
Inspection Date(s): 9/18/2019 - 10/16/2019
Issuance Date: 12/11/2019
CSHO ID: W7079
Optional Report No.: 2143-20

Safety Order and Notification of Penalty

Company Name: Santarossa Mosaic and Tile Company Incorporated
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405

Safety Order 01 Item 005c Type of Violation: **Serious**

29 CFR 1910.1052(l)(1): The employer did not provide information and training for each affected employee prior to or at the time of initial assignment to a job involving potential exposure to methylene chloride: (Construction Reference 1926.1152):

Indiana University, Intermural Sports Building, North and South Towers – Training on the physical and health hazards of Methylene Chloride, as contained in Safety Klean Fast Acting Stripper (60-100% Methylene Chloride) was not performed for employees who performed a floor and wall tile renovation project with the chemical product.

Date By Which Violation Must Be Abated: **1/16/2020**
Proposed Penalty: **\$0.00**

Julie C. Alexander, JD
Director of General Industry

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



INVOICE/DEBT COLLECTION NOTICE

Company Name: Santarossa Mosaic and Tile Company Incorporated
and its successors
Inspection Site: 1025 East 7th Street #111, Bloomington, IN 47405
Issuance Date: 12/11/2019

Summary of Penalties for Inspection Number: 318116290


Safety Order 1, Serious = \$20,000.00
TOTAL PENALTIES = \$20,000.00

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". Please indicate IOSHA's Inspection Number (indicated above) on the remittance. You may also make a payment online at <https://payingov.com/dol/>. Your account number is your inspection number.

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, J.D.
Director of General Industry

12-11-2019
Date



INDIANA

DEPARTMENT OF LABOR

ERIC HOLCOMB, GOVERNOR
Rick J. Ruble, Commissioner
402 West Washington Street, Room W195
Indianapolis, Indiana 46204-2751
Phone: (317) 232-2655
Fax: (317) 233-3790

To: _____

Re: Attached Safety Order(s) and Notification(s) of Penalty(ies)

An inspection of your employer's work site (see address on the attached Safety Order[s]) has revealed conditions which we believe do not comply with the provisions of The Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1), or the standards or rules adopted thereunder. Accordingly, enclosed please find copies of the Safety Order(s) and Notification(s) of Penalty(ies) issued to your employer, describing such violation(s) with reference to the applicable standards, rules or provisions of the statute and stating the amount of any penalties.

Your employer may request an informal conference to review the results of the inspection (Safety Orders, penalties, abatement dates, etc.). You will be invited to attend this conference if one is requested. You may also request an informal review of the inspection.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of abatement times only. Such a petition must be filed before the Safety Order(s) becomes a final order (15 working days after receipt or within ten (10) working days after notification of employer petition to modify abatement date[s]).

Please direct any questions you may have to me at the address above or telephone number below.

Sincerely,

Julie C. Alexander, J.D.
Director, Industrial Compliance
317-232-1987

Enclosure