

## SETTLEMENT AGREEMENT

The Commissioner of Labor (hereinafter referred to as "Commissioner") and Amerifence, Inc. (hereinafter referred to as "Employer") hereby agree as follows:

The Commissioner amends the Safety Order(s) and Notification(s) of Penalty, IOSHA Inspection No. 316485069 issued to the Employer on December 13, 2012 in the following manner.

### SAFETY ORDER 01:

- |                 |  |
|-----------------|--|
| Item 1          | Upheld and penalty reduced to \$1,500. The abatement period is amended to February 15, 2013. |
| Item 2:         | Upheld.  |
| Item 3:         | Upheld and penalty reduced to \$1,500.   |
| Item 4:         | Upheld and penalty reduced to \$1,500.   |
| Item 5a and 5b: | Upheld and penalty reduced to \$1,500.   |
| Item 6:         | Upheld and penalty reduced to \$1,500.   |
| Item 7:         | Grouped with Item 1.   |
| Item 8a and 8b: | Grouped with Item 5a-5b.   |

### SAFETY ORDER 02:

- |         |         |
|---------|---------|
| Item 1: | Upheld. |
|---------|---------|

**The TOTAL AGREED PENALTY is \$9,750.00**

**The first of six payments of \$1625 will be due and payable on the 15<sup>th</sup> of February and the next five payments are due on the 15<sup>th</sup> of each consecutive month with the last payment of \$1625 due and payable on July 15, 2013.**

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 Employer further agrees that if the AGREED PENALTY is not paid as agreed 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.

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.

AMERIFENCE, INC.

COMMISSIONER OF LABOR

By: 

By: 

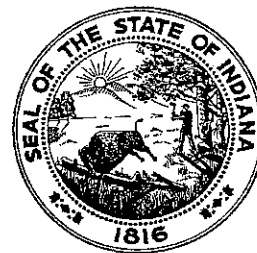
Title: PRESIDENT

Title: Director

Date: 1-29-13

Date: 1/30/13

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 # 7003 1010 0013 5782 5580 12-13-12 jto*

## Safety Order and Notification of Penalty

**To:** Amerifence, Inc.  
and its successors  
4340 Hull Street  
Indianapolis, IN 46226

**Inspection Number:** 316485069

**Inspection Date(s):** 08/29/2012 - 11/26/2012

**Issuance Date:** 12/13/2012

**Inspection Site:**

4340 Hull Street  
Indianapolis, IN 46226

*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.

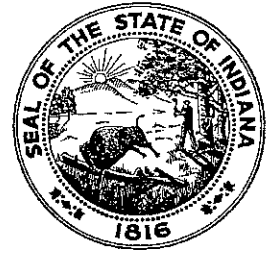
**Followup Inspections** - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation 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

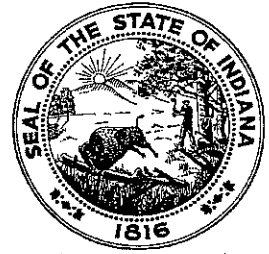
An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 12/13/2012. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on \_\_\_\_\_ at \_\_\_\_\_.

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 Number:** 316485069  
**Inspection Dates:** 08/29/2012 -  
11/26/2012  
**Issuance Date:** 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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

29 CFR 1910.303(b)(1): Electric equipment was not free from recognized hazards that were likely to cause death or serious physical harm to employees:

Outside shop under awning - Electrical equipment and installations such as, but not limited to four electrical receptacles (outlets) were exposed to hazardous conditions (water, heat, high relative humidity, etc.) located on the outside of the building in the outdoor work area. Shop employees plug and unplug flexible cords and cord and plug connected equipment such as but not limited to, a Milwaukee portable circular saw (Serial # is 607D805330011) into the 120-Volt (AC) electrical outlets. Although the electrical receptacle was equipped with a ground-fault circuit-interrupter (GFCI) breaker, the GFCI was never tested to determine if it was functioning properly.

**Date By Which Violation Must be Abated:** 01/10/2012  
**Proposed Penalty:** \$2,100.00

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

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

Shop/next to overhead door - Shop employees had access to two fifteen amp, receptacles (outlets) fifteen amp outlets that showed excessive damage that appeared to have been caused by sparks and or a fire.

**ABATEMENT NOTE:** This was corrected during the inspection. CSHO verified that the receptacle (outlets) were replaced.

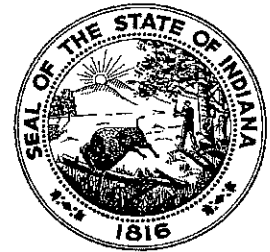
**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$750.00



**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

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11/26/2012  
**Issuance Date:** 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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

29 CFR 1910.303(b)(8)(i): Electric equipment was not firmly secured to the surface on which it was mounted:

Shop Area - Shop employees used a 20 amp receptacle (outlet) that was not secured or mounted to the wall. They used this receptacle to power a DELTA Bandsaw on a daily basis.

**ABATEMENT NOTE:** This was corrected during the inspection. CSHO verified that the receptacle(outlets) is now securely mounted.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$2,100.00**

**Safety Order 1 Item 4 Type of Violation: **Serious****

29 CFR 1910.303(f)(2): Each service, feeder, and branch circuit, at its disconnecting means or overcurrent device, was not legibly marked to indicate its purpose, unless located and arranged so the purpose was evident:

Shop Area - Receptacles (outlets) and equipment such as but not limited to, the electrical receptacles (outlets) outside, and the air compressor were connected to a 120-Volt electrical panel located in the Shop area, next to the overhead door. None of the circuit breakers located inside of this electrical panel were marked or labeled as to what electrical equipment, installations or apparatus they supplied (or were connected to).

**ABATEMENT NOTE:** The above hazard was corrected during inspection.

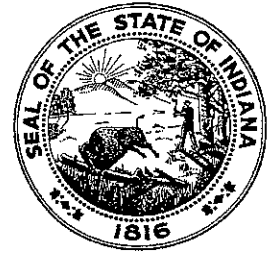
**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$2,100.00**



**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 316485069  
Inspection Dates: 08/29/2012 - 11/26/2012  
Issuance Date: 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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 5a Type of Violation: **Serious****

29 CFR 1910.304(g)(5): The path to ground from circuits, equipment, and enclosures was not permanent, continuous, and effective:

Shop Area - Employees used a 120 volt, Milwaukee, 10.25 inch, portable circular saw, with a missing ground pin, to cut lumber for fences.

**ABATEMENT NOTE: This was corrected during the inspection. CSHO verified that the missing ground pin had been replaced.**

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$2,100.00**

**Safety Order 1 Item 5b Type of Violation: **Serious****

29 CFR 1910.334(a)(3)(ii): Attachment plugs and receptacles were connected or altered in a manner which prevented proper continuity of the electric equipment grounding conductor at the point where plugs were attached to receptacles:

Shop Area - Shop employees plugged a 120 volt, Milwaukee, 10.25 inch, portable circular saw, with a missing ground pin, into the receptacles (outlets) in the outside work area.

**ABATEMENT NOTE: This was corrected during the inspection. CSHO verified that the missing ground pin had been replaced.**

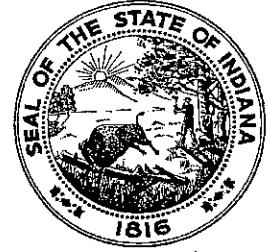
**Date By Which Violation Must be Abated:**

AKO

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

**Inspection Number:** 316485069  
**Inspection Dates:** 08/29/2012 -  
11/26/2012  
**Issuance Date:** 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

**Safety Order 1 Item 6** Type of Violation: **Serious**

29CFR 1910.305(b)(2)(i): All pull boxes, junction boxes, and fittings were not provided with covers identified for the purpose. In completed installations, each outlet box did not have a cover, faceplate, or fixture canopy:

Inside Shop Area Next to Overhead Door - Employees operated an electric, Jet, Table Saw each day that was plugged into an uncovered receptacle (outlet). Employees walked by the uncovered outlet several times each day and stood approximately three feet away from it when they are using the saw.

**ABATEMENT NOTE:** This was corrected during the inspection. **CSHO verified that the receptacle (outlet) was replaced.**

<b>Date By Which Violation Must be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$2,100.00</b>

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

**Inspection Number:** 316485069  
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11/26/2012  
**Issuance Date:** 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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

29 CFR 305(j)(2)(vii): A receptacle installed in a wet location where the product intended to be plugged into it was not attended while in use did not have an enclosure that was weatherproof when the attachment plug cap was removed.

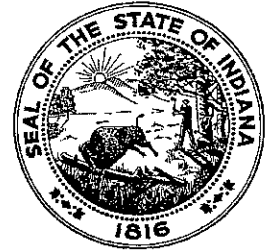
Outside Shop Area - In the outdoor shop area there was one of the four, 20 amp, receptacles (outlets) that did not have a cover on it. These receptacles (outlets) were exposed to hazardous conditions (water, heat, high relative humidity, etc.) located on the outside of the building in the outdoor work area. Shop employees plug and unplug flexible cords and cord and plug connected equipment such as but not limited to, a Milwaukee portable circular saw (Serial # is 607D805330011) into the 120-Volt (AC) electrical outlets.

<b>Date By Which Violation Must be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$2,100.00</b>

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 316485069  
Inspection Dates: 08/29/2012 - 11/26/2012  
Issuance Date: 12/13/2012



**Safety Order and Notification of Penalty**

**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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 8a Type of Violation: **Serious****

29 CFR 1910.334(a)(2)(i): Portable cord and plug connected electric equipment and flexible cord sets (extension cords) were not visually inspected before use on any shift for external defects (such as loose parts, deformed and missing pins, or damage to outer jacket or insulation) and for evidence of possible internal damage (such as pinched or crushed outer jacket):

Shop Area - Employees used a 120 volt, Black and Decker, 7359 Type 2, portable circular saw to cut lumber for fences. The cord's outer jacket was damaged at the end nearest to the circular saw, **exposing live wire.**

**ABATEMENT NOTE: The above hazard was corrected during inspection. This piece of equipment was removed from service.**

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$2,100.00**

**Safety Order 1 Item 8b Type of Violation: **Serious****

29 CFR 1910.334(a)(2)(ii): When there was a defect or evidence of damage that could expose an employee to injury, the defective or damaged item was not removed from service until the repairs and tests necessary to render the electric equipment safe had been made:

Shop Area - Shop Area - Employees used a 120 volt, Black and Decker, 7359 Type 2, portable circular saw to cut lumber for fences. The cord's outer jacket was damaged at the end nearest to the circular saw, **exposing live wire.**

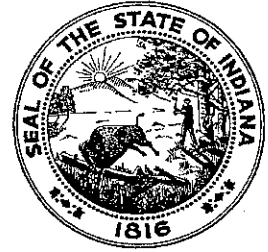
**ABATEMENT NOTE: The above hazard was corrected during inspection. This piece of equipment was removed from service.**

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

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

**Inspection Number:** 316485069  
**Inspection Dates:** 08/29/2012 -  
11/26/2012  
**Issuance Date:** 12/13/2012



**Safety Order and Notification of Penalty**

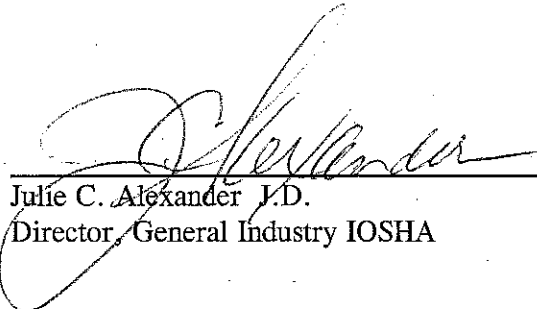
**Company Name:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226

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

29 CFR 1904.39(a): Within eight (8) hours after the death of any employee from a work-related incident as a result of a work-related incident, the employer did not orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration, U.S. Department of Labor, that is nearest to the site of the incident:

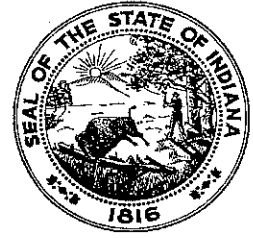
Entire Facility - A fatality occurred on August 27th, 2012 and was not reported..

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

  
\_\_\_\_\_  
Julie C. Alexander J.D.  
Director, General Industry IOSHA

**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:** Amerifence, Inc.  
**Inspection Site:** 4340 Hull Street, Indianapolis, IN 46226  
**Issuance Date:** 12/13/2012

**Summary of Penalties for Inspection Number 316485069**

<b>Safety Order 01, Serious</b>	=	\$15,450.00
<b>Safety Order 02, Nonserious</b>	=	\$1,500.00
<b>Total Proposed Penalties</b>		<b>\$16,950.00</b>

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.

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, Industrial Compliance

*12/13/12*  
Date