

FDOL
FILE

IN THE STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE IOSHA BOARD OF
SAFETY REVIEW
CASE DOCKET NO. 13-020

IN THE MATTER OF:

COMMISSIONER OF LABOR,)
)
 Complainant,)
)
 v.)
)
 FLEX-N-GATE CORPORATION)
 and its successors,)
)
 Respondent.)

F I L E D
APR 24 2014
Indiana Board of
Safety Review

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor ("Complainant") and Flex-N-Gate Corporation ("Respondent"), through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

PART I.

1. From January 30, 2013 through May 7, 2013, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent's facility located at 1200 East 8th Street, Veedersburg, IN 47987.
2. On June 7, 2013, the Commissioner of Labor issued Safety Order No. 1 (Indiana Department of Labor Inspection No. 316546571) alleging that Flex-N-Gate Corporation had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*) or the standards or rules thereunder. Safety Order No. 1 is attached hereto as Exhibit A and is incorporated herein.
3. On July 1, 2013, Respondent duly and timely petitioned for review of Safety Order No. 1.

PART II.

4. The Respondent petitioned for review of Safety Order No. 1, consisting of Item Nos. 1 through 21.

5. Safety Order No. 1, Item No. 1, alleges a "Serious" violation of IC 22-8-1.1, Section 2 with an assessed total penalty of Five Thousand Dollars (\$5,000).

6. Safety Order No. 1, Item No. 2, alleges a "Serious" violation of 29 CFR 1910.22(a)(1) and assesses a total penalty of Two Thousand Dollars (\$2,000).

7. Safety Order No. 1, Item No. 3, alleges a "Serious" violation of 29 CFR 1910.23(a)(8), or in the alternative, 29 CFR 1910.132(d)(1) and assesses a total penalty of Five Thousand Dollars (\$5,000).

8. Safety Order No. 1, Item No. 4, alleges a "Serious" violation of 29 CFR 1910.95(g)(3) and assesses a total penalty of Five Thousand Dollars (\$5,000).

9. Safety Order No. 1, Item No. 5, alleges a "Serious" violation of 29 CFR 1910.95(g)(6), and assess a total penalty of Five Thousand Dollars (\$5,000).

10. Safety Order No. 1, Item No. 6a, alleges a "Serious" violation of 29 CFR 1910.95(g)(7)(iii)(A), Safety Order No. 1, Item No. 6b, alleges a "Serious" violation of 29 CFR 1910.95(g)(7)(iii)(C), and Safety Order No. 1, Item No. 6c, alleges a "Serious" violation of 29 CFR 1910.95(g)(7)(iii)(D), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

11. Safety Order No. 1, Item No. 7, alleges a "Serious" violation of 29 CFR 1910.95(h)(5)(i), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

12. Safety Order No. 1, Item No. 8, alleges a "Serious" violation of 29 CFR 1910.124(h)(4), and assesses a total penalty of Two Thousand Dollars (\$2,000).

13. Safety Order No. 1, Item No. 9, alleges a "Serious" violation of 29 CFR 1910.132(a) and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

14. Safety Order No. 1, Item No. 10, alleges a "Serious" violations of 29 CFR 1910.146(d)(3)(iii), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

15. Safety Order No. 1, Item No. 11, alleges a "Serious" violation of 29 CFR 1910.146(d)(9), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

16. Safety Order No. 1, Item No. 12, alleges a "Serious" violation of 29 CFR 1910.146(j)(2), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

17. Safety Order No. 1, Item No. 13, alleges a "Serious" violation of 29 CFR 1910.146(d)(3)(i), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

18. Safety Order No. 1, Item No. 14, alleges a "Serious" violation of 29 CFR 1910.146(k)(3)(ii), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

19. Safety Order No. 1, Item No. 15, alleges a "Serious" violation of 29 CFR 1910.147(c)(4)(ii), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

20. Safety Order No. 1, Item No. 16, alleges a "Serious" violation of 29 CFR 1910.147(c)(5)(ii)(D), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

21. Safety Order No. 1, Item No. 17, alleges a "Serious" violation of 29 CFR 1910.147(c)(7)(i), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

22. Safety Order No. 1, Item No. 18, alleges a "Serious" violation of 29 CFR 1910.147(d)(3), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

23. Safety Order No. 1, Item No. 19a, alleges a "Serious" violation of 29 CFR

1910.147(f)(3)(i) and Safety Order No. 1, Item No. 19b, alleges a "Serious" violation of 29 CFR 1910.147(f)(3)(ii), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

24. Safety Order No. 1, Item No. 20, alleges a "Serious" violation of 29 CFR 1910.157(d)(1), and assesses a total penalty of Five Thousand Dollars (\$5,000).

25. Safety Order No. 1, Item No. 21a, alleges a "Serious" violation of 29 CFR 1910.303(b)(7)(iv) and Safety Order No. 1, Item No. 21b, alleges a "Serious" violation of 29 CFR 1910.305(b)(1), and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500).

26. The total penalty for Safety Order No. 1 is Sixty-Four Thousand Dollars (\$64,000).

PART III.

27. Safety Order No. 1, Item No. 1, alleging a "Serious" violation of IC 22-8-1.1, Section 2, remains a "Serious" violation, but the penalty will be reduced based on the good faith efforts towards the engineered solution coupled with the heightened cleaning protocol from Five Thousand Dollars (\$5,000) to Two Thousand Five Hundred Dollars (\$2,500). Respondent will complete abatement for this item will be within twelve (12) months of the final approval date of this Settlement Agreement.

28. Complainant amends Safety Order No. 1, Item No. 2, so that it remains a "Serious" violation, but the penalty shall be reduced from Two Thousand Dollars (\$2,000) to One Thousand Dollars (\$1,000).

29. Complainant amends Safety Order No. 1, Item No. 3, so that it remains a "Serious" violation, but the reference to 29 CFR 1910.23(a)(8) will be deleted in its entirety. In addition, the penalty shall be reduced from Five Thousand Dollars (\$5,000) to Two Thousand Five Hundred Dollars (\$2,500). Respondent will complete abatement for this item will be within six

(6) months of the final approval date of this Settlement Agreement.

30. Complainant amends Safety Order No. 1, Item No. 4, by grouping this violation with Items No. 5 through 7 and re-designating the allegations under Items 4, 5, 6 and 7 as Item Nos. 4a through 4d. The overall penalty for Items Nos. 4a through 4d will be Five Thousand Dollars (\$5,000).

31. Complainant amends Safety Order No. 1, Item No. 5 by grouping this violation into Item No. 4 and re-designating it as Item No. 4b. As noted above, since it is grouped, the separate penalty for Item No. 5 is deleted.

32. Complainant amends Safety Order No. 1, Item No. 6 by grouping this violation into Item No. 4 and re-designating it as Item No. 4c. As noted above, since it is grouped, the separate penalty for Item No. 6 is deleted.

33. Complainant amends Safety Order No. 1, Item No. 7 by grouping this violation into Item No. 4 and re-designating it as Item No. 4d. As noted above, since it is grouped, the separate penalty for Item No. 7 is deleted.

34. Complainant amends Safety Order No. 1, Item No. 8 so that it remains a "Serious" violation, but the penalty shall be reduced from Two Thousand Dollars (\$2,000) to One Thousand Dollars (\$1,000).

35. Complainant amends Safety Order No. 1, Item No. 9 by deleting the violation in its entirety including the penalty.

36. Complainant amends Safety Order No. 1, Item No. 10, by grouping this violation with Item Nos. 12 and 14 and re-designating them as Item Nos. 10a through 10c. The overall penalty for Items Nos. 10a through 10c will be Two Thousand Five Hundred Dollars (\$2,500).

37. Complainant amends Safety Order No. 1, Item No. 11, by grouping this violation

with Item No. 13 and re-designating them as Item Nos. 11a and 11b. The overall penalty for Items Nos. 11a through 11b will be Two Thousand Five Hundred Dollars (\$2,500).

38. Complainant amends Safety Order No. 1, Item No. 12, by grouping this violation with Item Nos. 10 and 14 and re-designating it as Item No. 10b. As noted above, since it is grouped, the separate penalty for Item No. 12 is deleted.

39. Complainant amends Safety Order No. 1, Item No. 13, by grouping this violation with Item No. 11 and re-designating it as Item No. 11b. As noted above, since it is grouped, the separate penalty for Item No. 13 is deleted.

40. Complainant amends Safety Order No. 1, Item No. 14, by grouping this violation with Item Nos. 10 and 12 and re-designating it as Item No. 10c. As noted above, since it is grouped, the separate penalty for Item No. 14 is deleted.

41. Complainant amends Safety Order No. 1, Item No. 15, by deleting the violation in its entirety including the penalty.

42. Complainant amends Safety Order No. 1, Item No. 16, by deleting the violation in its entirety including the penalty.

43. Complainant amends Safety Order No. 1, Item No. 17 so that it remains a "Serious" violation, but the penalty shall be reduced from Two Thousand Five Hundred Dollars (\$2,500) to One Thousand Two Hundred Fifty Dollars (\$1,250). Respondent will complete abatement for this item will be within thirty (30) days of the final approval date of this Settlement Agreement.

44. Complainant amends Safety Order No. 1, Item No. 18, by deleting the violation in its entirety including the penalty.

45. Complainant amends Safety Order No. 1, Item Nos. 19a and 19b, by deleting the violations in their entirety including the penalties.

46. Complainant amends Safety Order No. 1, Item No. 20, by deleting the violation in its entirety including the penalty.

47. Complainant amends Safety Order No. 1, Item Nos. 21a and 21b so that it remains a "Serious" violation, but the penalty shall be reduced from Two Thousand Five Hundred Dollars (\$2,500) to One Thousand Two Hundred Fifty Dollars (\$1,250).

48. The AGREED total penalty for all violations and all subparts thereunder subject to this Agreed Entry is Nineteen Thousand Five Hundred (\$19,500).

49. Respondent hereby withdraws its petition for review previously filed in this matter.

PART IV.

50. Nothing contained in this Agreed Entry shall be construed to affect the Commissioner's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

51. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties for the purposes of the Indiana Occupational Safety and Health Act ("Act").

52. It is stipulated by and between the parties that this order and the terms and conditions set forth herein are not intended to be, and shall not be construed by anyone as an admission of any wrongdoing whatsoever by Respondent. It shall not be used by any party except for these proceedings, and enforcement matters arising out of these proceedings and any other subsequent IOSHA proceedings between the parties, and the Agreed Entry will not be used or be admissible in any other proceeding be it legal, equitable, or administrative in nature except as stated herein. The agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other

purpose, except as herein stated.

53. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

54. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

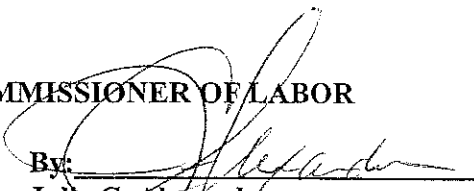
AGREED this 10th day of February, 2014

FLEX-N-GATE CORPORATION

By: 

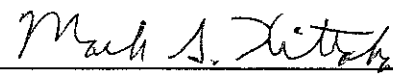
Title: CFO / SECRETARY

COMMISSIONER OF LABOR

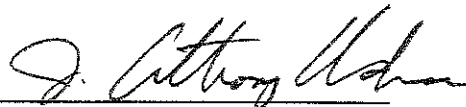
By: 

Julie C. Alexander
Director
IOSHA

Approved as to form:

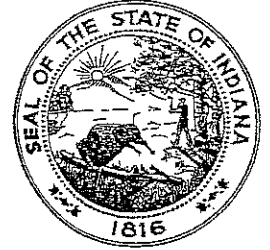
By: 

Mark S. Kittaka
Counsel for Respondent

By: 

J. Anthony Hardman
Assistant General Counsel
Indiana Department of Labor

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 0003 5732 8567 6-7-13 jfo

Safety Order and Notification of Penalty

To:

Flex-N-Gate Corporation,
 and its successors
 1200 East 8th Street
 Veedersburg, IN 47987

Inspection Number: 316546571

Inspection Date(s): 01/30/2013 - 05/07/2013

Issuance Date: 06/07/2013

Inspection Site:

1200 East 8th Street
 Veedersburg, IN 47987

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.

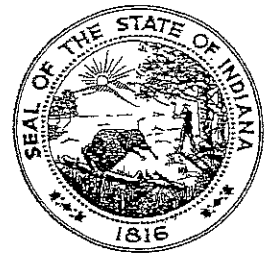
Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has 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 06/07/2013. The conference will be held at the IOSHA office located at 402 West

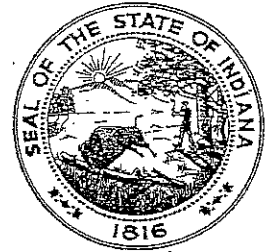
Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____

_____. 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: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 1 Type of Violation: Serious

IC 22-8-1.1, Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to flash fire and explosion hazards associated with combustible dust hazards.

a) Polish Area: Dust collectors conveyed and collected combustible metal dust from inside of the enclosed areas of the Auto Polishers. The Auto Polish process produced sparks and combustible metal dust creating a deflagration hazard in the dust collectors where the units collected and suspended combustible metal dust mixtures. The dust collectors connected to the Auto Polishers were not equipped with explosion protection such as, but not limited to explosion venting.

Among methods of abatement, one feasible means of abatement would be to follow all the requirements listed in NFPA 484, *Standard for Combustible Metals* for control of fire and/or explosion hazards on combustible metal dust collection systems.

b) Polish Area: Donaldson Torit Environmental Control Booths which collected and filtered combustible metal dust did not have explosion protection where Hand Polishers performed tasks such as grinding /polishing on steel bumpers. The hand polish process produced sparks and combustible metal dust creating a deflagration hazard in the Donaldson Torit Environmental Control Booths where the units collected and suspended combustible metal dust mixtures.

Among methods of abatement, one feasible means of abatement would be to follow all the requirements listed in NFPA 484, *Standard for Combustible Metals* for control of fire and/or explosion hazards on combustible metal dust collection systems.

c) Polish Area: Donaldson Torit Environmental Control Booths which collected and filtered combustible metal dust recycling the exhaust air back into the building where Hand Polishers performed tasks such as grinding /polishing on steel bumpers. The Donaldson Torit Environmental Control Booths collected part of and discharged the remainder of the combustible metal dust into the building which could potentially lead to flash fires, deflagrations and/or explosions. Among methods of abatement, one feasible means of abatement would be to follow all the requirements listed in NFPA 484, *Standard for Combustible Metals* using safe methods for collection of combustible metal dust such as wet collection systems or exhaust combustible metal dust to a safe location outside of the building.

Date By Which Violation Must be Abated:

07/03/2013

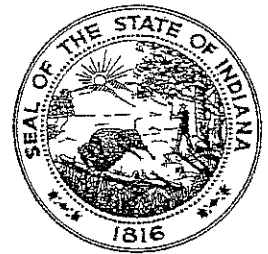
Proposed Penalty:

\$5,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 -
05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

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

29 CFR 1910.22(a)(1): Place(s) of employment were not kept clean and orderly, or in a sanitary condition:

V-Press Line: Oil from press operations were spraying and covering metal walking / working surface creating a slipping hazard.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,000.00

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

29 CFR 1910.23(a)(8): Floor hole(s), into which persons could accidentally walk, were not guarded by standard railings with standard toe-boards on all exposed sides or by floor hole covers of standard strength and construction:

Polish Area: Maintenance and Power-N-Free employees were exposed to a fall hazard where they worked near an unprotected opening approximately fifteen (15) feet above a concrete floor to make repairs and adjustments on the conveyor and/or elevator.

OR IN THE ALTERNATIVE:

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

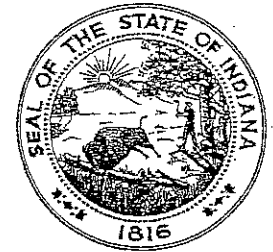
Polish Area: Master Guard did not assess a fall hazard and select personal protective equipment such as, but not limited to fall protection equipment where Maintenance and Power-N-Free employees were required to work near an unprotected opening approximately fifteen (15) feet above a concrete floor to make repairs and adjustments on the conveyor and/or elevator.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$5,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 -
05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 4 Type of Violation: Serious

29 CFR 1910.95(g)(3): Audiometric tests were not performed by a licensed or certified audiologist, otolaryngologist, or other physician, or by a technician who was certified by the Council of Accreditation in Occupational Hearing Conservation, or who had satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining and checking calibration and proper functioning of the audiometers being used; and a technician who performed audiometric tests was not responsible to an audiologist, otolaryngologist or physician:

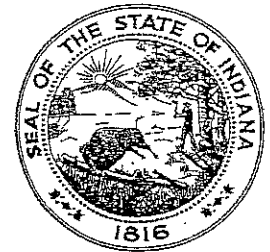
Facility Wide - The employer used a Trimetrics RA300 Digital Audiometer (Serial Number 971045) to perform all of ~~the baseline and annual audiograms for all of the employees in the facility. There was not an employee who operated~~ this audiometer who was a licensed or certified physician and/or a technician who was certified by the Council of Accreditation in Occupational Hearing Conservation. The employee who operated this audiometer was also not responsible to an audiologist, otolaryngologist or physician who examined and reviewed all of the audiograms for the facility.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$5,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

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

29 CFR 1910.95(g)(6): New audiograms were not obtained annually for each employee exposed to noise at or above an 8 hour time weighted average of 85 dBA:

a) Press Area - A Press Operator was exposed to continuous noise at 113.0% of the allowable daily noise (8-hour time weighted average sound level of 85 dBA) or equivalent sound level of approximately 89.2 dBA during the 422 minute sampling period on February 20, 2013. Zero exposure was assumed for the 58 minutes not sampled. There was no annual audiogram for this employee in 2012. The last audiogram for this employee was performed in February of 2009.

b) Hand Polish - A Hand Polisher was exposed to continuous noise at 280.6% of the allowable daily noise (8-hour time weighted average sound level of 85 dBA) or equivalent sound level of approximately 97.3dBA during the 459 minute sampling period on February 20, 2013. Zero exposure was assumed for the 21 minutes not sampled. There was no annual audiogram for this employee in 2012. The last audiogram for this employee was performed in February of 2009.

c) Hand Polish- A Hand Polisher was exposed to continuous noise at 320.7% of the allowable daily noise (8-hour time weighted average sound level of 85 dBA) or equivalent sound level of approximately 97.9 dBA during the 439 minute sampling period on February 20, 2013. Zero exposure was assumed for the 41minutes not sampled. There was no annual audiogram for this employee in 2012. The last audiogram for this employee was performed in February of 2009.

d) Hand Polish- A Hand Polisher was exposed to continuous noise at 167.2% of the allowable daily noise (8-hour time weighted average sound level of 85 dBA) or equivalent sound level of approximately 93.4 dBA during the 439 minute sampling period on February 20, 2013. Zero exposure was assumed for the 41minutes not sampled. There was no annual audiogram for this employee in 2012. The last audiogram for this employee was performed in February of 2009.

e) Press- A Press Operator was exposed to continuous noise at 119.1% of the allowable daily noise (8-hour time weighted average sound level of 85 dBA) or equivalent sound level of approximately 89.9dBA during the 443 minute sampling period on February 20, 2013. Zero exposure was assumed for the 37 minutes not sampled. There was no annual audiogram for this employee in 2012. The last audiogram for this employee was performed in February of 2009.

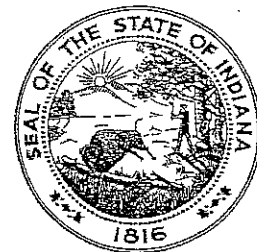
Date By Which Violation Must be Abated:
Proposed Penalty:

07/03/2013
\$5,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 -
05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

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 6a Type of Violation: **Serious**

29 CFR 1910.95(g)(7)(iii)(A): The audiologist, otolaryngologist, or physician who reviewed problem audiograms and determined whether there was a need for further evaluation was not provided a copy of the requirements for hearing conservation as set forth in paragraphs (c) through (n) of this section:

Facility Wide - The employer used a Trimetrics RA300 Digital Audiometer (Serial Number 971045) to perform all of the baseline and annual audiograms for all of the employees in the facility. Some of the audiograms were then sent to and reviewed by a audiologist at Crawfordsville Audiology. Prior to the audiologist reviewing any of these audiograms, the employer did not provide or assure that the audiologist had access to a copy of 29 CFR 1910.95 (OSHA's Standard on Occupational Noise Exposure).

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

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

29 CFR 1910.95(g)(7)(iii)(C): The audiologist, otolaryngologist, or physician who reviewed problem audiograms and determined whether there was a need for further evaluation was not provided measurements of background sound pressure levels in the audiometric test room as required in Appendix D: Audiometric Test Rooms:

Facility Wide: The employer used a Trimetrics RA300 Digital Audiometer (Serial Number 971045) to perform all of the baseline and annual audiograms for all of the employees in the facility. All of the audiograms performed after approximately 1998 were administered inside of an Eckel Industries Acoustic Divisions Autometric Booth (Serial Number 70113). Some of the audiograms were reviewed by an audiologist at Crawfordsville Audiology. Prior to the audiologist reviewing any of these audiograms, the employer did not provide the audiologist with the sound pressure level (SPL) measurements for the locations where the audiograms were performed.

Date By Which Violation Must be Abated: 07/03/2013

Indiana Department of Labor

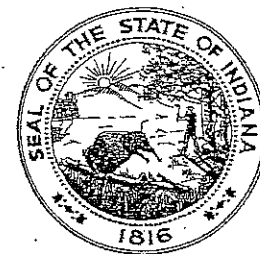
Indiana Occupational Safety and Health Administration

Inspection Number: 316546571

Inspection Dates: 01/30/2013 -

05/07/2013

Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation

Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

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

29 CFR 1910.95(g)(7)(iii)(D): The audiologist, otolaryngologist, or physician who reviewed problem audiograms and determined whether there was a need for further evaluation was not provided records of audiometer calibrations required by paragraph (h)(5) of this section:

Facility Wide: The employer used a Trimetrics RA300 Digital Audiometer (Serial Number 971045) to perform all of the baseline and annual audiograms for all of the employees in the facility. Some of the audiograms were reviewed by an audiologist at Crawfordsville Audiology. Prior to the audiologist reviewing any of these audiograms, the employer did not provide the physician with the audiometer calibration certificates or records.

Date By Which Violation Must be Abated: 07/03/2013

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

29 CFR 1910.95(h)(5)(i): The functional operation of the audiometer was not checked before each day's use:

Facility Wide: The employer used a Trimetrics RA300 Digital Audiometer (Serial Number 971045) to perform all of the baseline and annual audiograms for all of the employees in the facility. The employee operating the audiometer did not check it by testing a person with known, stable hearing thresholds and by listening to the audiometer's outputs to assure that output is free from distortion or unwanted sounds before each day's use.

Date By Which Violation Must be Abated: 07/03/2013

Proposed Penalty: \$2,500.00

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

29 CFR 1910.124(h)(4): The employer did not provide periodic examinations of their exposed body parts, especially their nostrils:

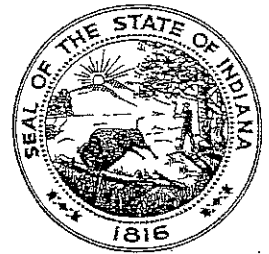
Plating Area: Solution Attendants and Maintenance employees were not provided medical evaluations including, but not limited to nasal exams when they were exposed to chrome while handling materials such as chromic acid in dip tank/ plating operations.

Date By Which Violation Must be Abated: 07/03/2013

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 -
05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Proposed Penalty: \$2,000.00

Safety Order 1 Item 9 Type of Violation: **Serious**

29 CFR 1910.132(a): Protective equipment was not used when necessary whenever hazards capable of causing injury and impairment were encountered:

Polish Department: Auto Techs and/or Maintenance employees were not wearing flame-resistive clothing where they were exposed to a flash fire hazard while performing work tasks such as, but not limited to changing out filter cartridges.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 10 Type of Violation: **Serious**

29 CFR 1910.146(d)(3)(iii): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including purging, inerting, flushing or ventilating the permit space as necessary to eliminate or control atmospheric hazards:

Plating Area: Master Guard did not have isolation procedures where Solution attendants and Maintenance employees were exposed to chemical energy such as, but not limited to sodium hydroxide, sulfuric acid, and hydrochloric acid and mechanical energy such as, but not limited to Uyd lite Hoist and rack.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

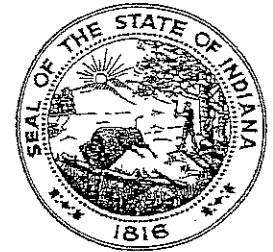
Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Inspection Number: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order 1 Item 11 Type of Violation: **Serious**

29 CFR 1910.146(d)(9): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement procedures for summoning rescue and emergency services, for rescuing entrants from permit spaces to rescued employees, and for preventing unauthorized personnel from attempting a rescue:

Plating Area: Master Guard did not have a means for summoning rescue where Solution Attendants and Maintenance employees entered plating tanks and were exposed to hazards such as, but not limited to chemical burns, thermal burns, fall hazards, and/ or slip hazards.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 12 Type of Violation: **Serious**

29 CFR 1910.146(j)(2): The employer did not ensure that each entry supervisor verified, by checking that the appropriate entries had been made on the permit, that all tests specified by the permit had been conducted and that all procedures and equipment specified by the permit were in place before endorsing the permit and allowing entry to begin:

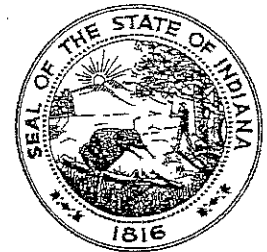
Plating Area: Entry Supervisors did not verify that all safe entry procedures had been completed prior to entry such as, but not limited to verifying that all drain and feed line to the Plating Tanks were locked out and/ or that an attendant was available for the each entry into permit-required confined spaces.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 13 Type of Violation: **Serious**

29 CFR 1910.146(d)(3)(i): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including isolating the permit space:

Plating Area: Master Guard did not evaluate the Veedersburg Fire Department ability to respond as the emergency rescue service in a timely manner where Solution Attendants and Maintenance employees enter plating tanks and were exposed to hazards such as, but not limited to chemical burns, thermal burns, fall hazards, and/ or slip hazards. The Veedersburg Fire Department is a volunteer fire department.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 14 Type of Violation: **Serious**

29 CFR 1910.146(k)(3)(ii): An authorized entrant entered a permit space and did not have the other end of the retrieval line attached to a mechanical device or fixed point outside the permit space in such a manner that rescue could begin as soon as the rescuer became aware that rescue was necessary:

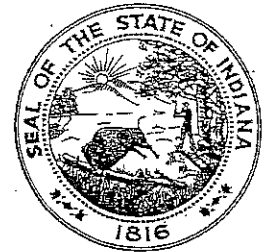
Plating Area: Solution attendants used a lanyard with one end attached to the entrant and the other draped over the side of the plating tank. In an emergency the loose end of the lanyard would be attached to the Udylite Programat P-1600 material lifting device and used to lift the entrant out of the plating tank that was approximately eight feet deep. The Udylite Programat P-1600 was not designed to lift personnel exposing employees to serious injury.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 15 Type of Violation: **Serious**

29 CFR 1910.147(c)(4)(ii): The energy control procedures did not clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, including, but not limited to Items AD of this section:

Polish Department: Master Guard did not develop machine specific procedures for the Ford Auto Polisher where Auto Technicians and Electricians were exposed to electrical and hydraulic energy.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 16 Type of Violation: **Serious**

29 CFR 1910.147(c)(5)(ii)(D): Lockout devices and tagout devices did not indicate the identity of the employee applying the device(s):

Auto Polish: The "B" Keys did not identify the individual using it as a lockout device where Auto Technicians, Electricians and Maintenance employees entered the Auto Polish area to clean, and perform maintenance and were exposed to hazardous energy sources including, but not limited to electrical and mechanical.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 17 Type of Violation: **Serious**

29 CFR 1910.147(c)(7)(i): The employer did not provide adequate training to ensure that the purpose and function of the energy control program was understood by employees:

Auto Polish: Auto Technicians were not trained to at least the level of affected personnel where they were exposed to hazardous energy sources including electrical and pneumatic when performing cleaning and maintenance tasks inside the Auto Polishers.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Indiana Department of Labor

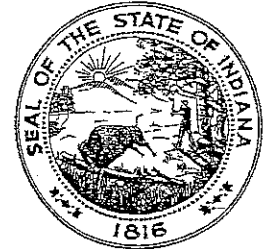
Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571

Inspection Dates: 01/30/2013 -

05/07/2013

Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation

Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 18 Type of Violation: **Serious**

29 CFR 1910.147(d)(3): All energy isolating devices that were needed to control the energy to the machine or equipment was not physically located and operated in such a manner as to isolate the machine or equipment from the energy source:

Polish Department: The Auto Polishers were not isolated from all electrical and pneumatic energy sources by lockout devices where Auto Technicians/ Auto Loaders went into equipment to clean combustible dust using vacuums, brooms, and shovels and perform maintenance.

Date By Which Violation Must be Abated:

07/03/2013

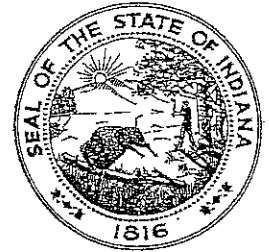
Proposed Penalty:

\$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health
Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 -
05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

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 19a Type of Violation: **Serious**

29 CFR 1910.147(f)(3)(i): A procedure was not utilized to afford the employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device when servicing and/or maintenance was performed by a crew, craft, department, or other group:

Auto Polish: Master Guard did not develop procedures that provided protection to the level of a personal lockout device where Auto Technicians, Auto Loaders, Electricians and Maintenance workers performed cleaning and maintenance tasks and were exposed to electrical and pneumatic energy.

Date By Which Violation Must be Abated: 07/03/2013
Proposed Penalty: \$2,500.00

Safety Order 1 Item 19b Type of Violation: **Serious**

29 CFR 1910.147(f)(3)(ii): Group lockout or tagout devices were not used in accordance with specific requirements listed in paragraphs A through D of this section:

Auto Polish: Each Auto Technician, Auto Loader, Electrician, or Maintenance worker did not affix a personal lockout tagout device to a group lock out device when performing work tasks in Auto Polish, exposing them to hazardous energy sources including, but not limited to electrical or pneumatic.

Date By Which Violation Must be Abated: 07/03/2013

Indiana Department of Labor

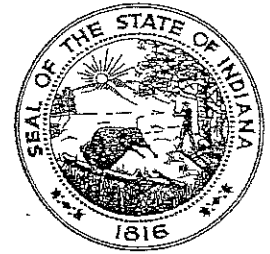
Indiana Occupational Safety and Health Administration

Inspection Number: 316546571

Inspection Dates: 01/30/2013 -

05/07/2013

Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation

Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 20 Type of Violation: **Serious**

29 CFR 1910.157(d)(1): Portable fire extinguishers were not selected based on the classes of anticipated workplace fires and on the size and degree of hazard which would affect their use:

Polish Department: Auto Loaders, Hand Polishers, and Maintenance employees used type A:B:C:, foam type extinguishers and water to extinguish iron dust fires.

Date By Which Violation Must be Abated:

07/03/2013

Proposed Penalty:

\$5,000.00

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 21a Type of Violation: **Serious**

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

a) Plating Area: On January 31, 2013, broken conduit connected to a 480 volt junction box on 22 North Mag Filter was exposing employees to an electrical hazards.

b) Plating Area: On January 31, 2013, damaged conduit connect to a junction box on a filter pump in 25 South, east end of plating line was exposing employees to an electrical hazards.

c) Plating Line: On January 30, 2013, a there was exposed wiring below junction box on sulfuric line acid fill, South Plating line. The exposed wiring was 30 ½ inches above the ground

Date By Which Violation Must be Abated:

07/03/2013

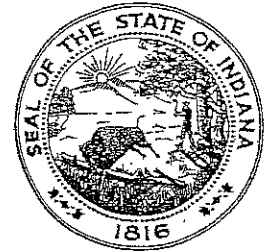
Proposed Penalty:

\$2,500.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 316546571
Inspection Dates: 01/30/2013 - 05/07/2013
Issuance Date: 06/07/2013



Safety Order and Notification of Penalty

Company Name: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987

Safety Order 1 Item 21b Type of Violation: **Serious**

29 CFR 1910.305(b)(1): Openings through which conductors enter boxes, cabinets, or fittings were not effectively closed:

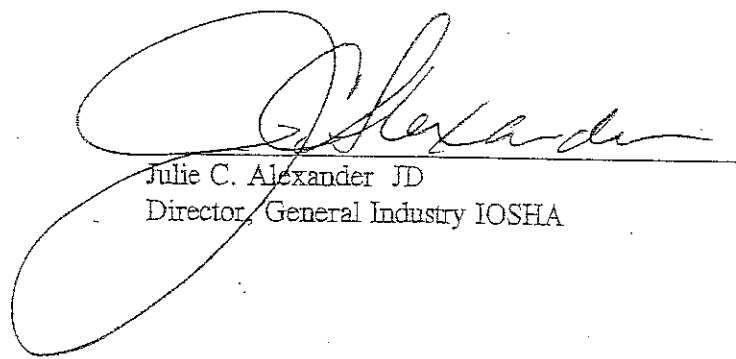
a) Plating Area: On January 31, 2013, a 480 volt junction box connected to 22 North Mag Filter and Educator Pump had an opening exposing employees to an electrical hazards.

b) Plating line 25 South: On January 31, 2013, a junction box on a pump connected to a 480 volt junction box on the ~~east end of the plating line had an opening exposing employees to an electrical hazards.~~

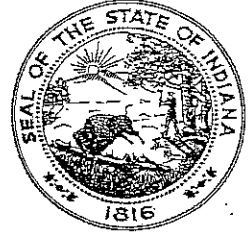
c) Plating Line: On January 30, 2013, a there was exposed wiring below junction box on sulfuric line acid fill, South Plating line. The exposed wiring was 30 1/2 inches above the ground.

Date By Which Violation Must be Abated:

07/03/2013


Julie C. Alexander JD
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: Flex-N-Gate Corporation
Inspection Site: 1200 East 8th Street, Veedersburg, IN 47987
Issuance Date: 06/07/2013

Summary of Penalties for Inspection Number 316546571

Safety Order 01, Serious = \$64,000.00

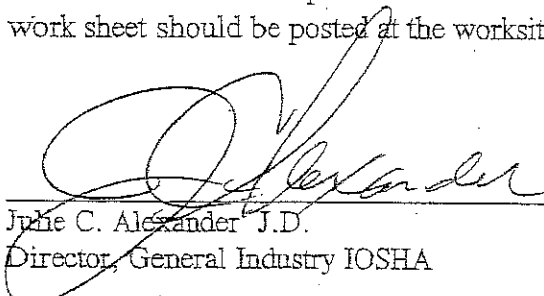
Total Proposed Penalties \$64,000.00

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.

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, General Industry IOSHA

Date 6/7/13