

**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

-----	:	
SECRETARY OF LABOR,	:	
	:	OSHRC No. 20-1679
Complainant,	:	
	:	
v.	:	Inspection No. 1476984
	:	
INDUSTRIAL INSULATION AND COATINGS,	:	
LLC, and its successors,	:	
	:	Chief Judge Covette Rooney
Respondent.	:	
-----	:	

**COMPLAINT**

The Secretary of Labor submits this complaint pursuant to 29 C.F.R. § 2200.34(a). The Secretary alleges as follows:

1. On November 25, 2020, OSHA issued to Respondent a Citation and Notification of Penalty. The Citation and Notification of Penalty is attached hereto as Exhibit A and is incorporated by reference herein.

2. On December 18, 2020, Respondent filed a notice of contest with the Occupational Safety & Health Review Commission electing to contest the Citation and Notification of Penalty. Respondent's notice of contest is attached hereto as Exhibit B.

3. Citation 2, Item 1 is characterized as "willful" within the meaning of section 17(a) of the OSH Act, 29 U.S.C. § 666(a). That item is also "serious" within the meaning of section 17(k) of the OSH Act, 29 U.S.C. § 666(k), in that there was a substantial probability that death or serious physical harm could have resulted from the violative conditions or practices, and Respondent knew or could have known with the exercise of reasonable diligence of the presence of the violative conditions or practices.

4. The Occupational Safety and Health Review Commission has jurisdiction over this contest pursuant to Section 10(c) of the OSH Act, 29 U.S.C. § 659(c).

5. Respondent is an employer within the meaning of section 3(5) of the OSH Act, 29 U.S.C. § 652(5).

6. The time, location, place, and circumstances of each alleged violation under contest are set forth in the Citation and Notification of Penalty.

7. The proposed penalty for the contested items, as set forth in Exhibit A, gives due consideration to the gravity of the violations, the size of Respondent's business, Respondent's good faith, and its history of previous violations, as required by Section 17(j) of the Act, 29 U.S.C. § 666(j).

8. The abatement dates for the contested items, as set forth in Exhibit A, have been fixed to secure abatement within the shortest period of time within which Respondent can reasonably be expected to correct the violations, giving due consideration to the gravity of the violations, the number of employees exposed, and the availability of needed equipment.

WHEREFORE, the Secretary demands that the Commission affirm each Citation item and assess a penalty for each Citation item in an amount not less than that proposed in Exhibit A.

Respectfully submitted,

Post Office Address:

Kate S. O'Scannlain  
Solicitor of Labor

Office of the Solicitor  
U.S. Department of Labor  
1835 Market Street  
Mailstop SOL/22  
Philadelphia, PA 19103-2968  
Telephone: (215) 861-5139  
Facsimile: (215) 861-5162  
[Doyle.Michael@dol.gov](mailto:Doyle.Michael@dol.gov)

Oscar L. Hampton III  
Regional Solicitor

/s/ Michael P. Doyle  
Michael P. Doyle  
Regional OSHA Counsel

UNITED STATES DEPARTMENT OF  
LABOR

Date: January 11, 2021

Attorneys for Complainant.

**CERTIFICATE OF SERVICE**

I certify that the foregoing Complaint was filed using the E-File system. I further certify that on January 11, 2021, a copy of the foregoing was served through electronic mail on the following parties:

Eric T. Frye, Esquire  
Cipriani & Werner  
[EFrye@c-wlaw.com](mailto:EFrye@c-wlaw.com)

/s/ Janeen M. Fillari  
Janeen M. Fillari  
Paralegal Specialist  
[fillari.janeen.m@dol.gov](mailto:fillari.janeen.m@dol.gov)  
[zzsol-phi-docket@dol.gov](mailto:zzsol-phi-docket@dol.gov)

Secretary v. Industrial Insulation and Coatings, LLC  
OSHRC Docket No. 20-1679  
Secretary's Complaint

Exhibit A

OSHA-2 – Citation and Notification of Penalty

**U.S. Department of Labor** Occupational Safety and Health Administration  
1000 Liberty Avenue  
Room 905  
Pittsburgh, PA 15222



11/25/2020

Industrial Insulation and Coatings, LLC  
and its successors  
142 East 2nd Street  
Girard, OH 44420

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (412) 395-4903.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of Electronic Freedom of Information Act. The information related to these alleged

violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at [www.osha.gov](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "C.M. Robinson", is positioned above the printed name.

**Christopher M. Robinson**  
Area Director

Enclosures

## U.S. Department of Labor

Occupational Safety and Health Administration  
1000 Liberty Avenue  
Room 905  
Pittsburgh, PA 15222



### Citation and Notification of Penalty

**To:**

Industrial Insulation and Coatings, LLC  
and its successors  
142 East 2nd Street  
Girard, OH 44420

**Inspection Number:** 1476984

**Inspection Date(s):** 06/01/2020 - 06/01/2020

**Issuance Date:** 11/25/2020

**Inspection Site:**

158 Huch Road  
Mars, PA 16046

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

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

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

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference, you may request one with the Area Director during the 15 working day contest period by calling (412) 395-4903. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

**Penalty Payment** – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically at [www.pay.gov](http://www.pay.gov). At the top of the [pay.gov](http://www.pay.gov) homepage, type “OSHA” in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. The direct link is:

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

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

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

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

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

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

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

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

**Inspection Activity Data** – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at [www.osha.gov](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on

11/25/2020. The conference will be held by telephone or at the OSHA office located at 1000

Liberty Avenue, Room 905, Pittsburgh, PA 15222 on \_\_\_\_\_ at

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

## CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

**Inspection Number: 1476984**

Company Name: Industrial Insulation and Coatings, LLC

Inspection Site: 158 Huch Road, Mars, PA 16046

Issuance Date: 11/25/2020

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1000 Liberty Avenue, Room 905, Pittsburgh, PA 15222.**

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

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

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

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

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

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

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

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

Inspection Number: 1476984  
Inspection Date(s): 06/01/2020 - 06/01/2020  
Issuance Date: 11/25/2020



**Citation and Notification of Penalty**

**Company Name:** Industrial Insulation and Coatings, LLC  
**Inspection Site:** 158 Huch Road, Mars, PA 16046

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

29 CFR 1926.602(c)(1)(viii)(A): The industrial truck was not equipped with a safety platform/cage firmly secured to the lifting carriage and/or forks when used for lifting personnel:

a) Jobsite, 158 Huch Road, Mars, PA: On or about June 1, 2020, employees were using a Caterpillar forklift without a platform or cage to access to and from the work area on the roof, approximately 20 feet above the ground.

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

**Corrected During Inspection**  
**\$5,398.00**

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

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

Inspection Number: 1476984  
Inspection Date(s): 06/01/2020 - 06/01/2020  
Issuance Date: 11/25/2020



**Citation and Notification of Penalty**

**Company Name:** Industrial Insulation and Coatings, LLC  
**Inspection Site:** 158 Huch Road, Mars, PA 16046

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

29 CFR 1926.501(b)(11): Each employee on a steep roof with unprotected sides and edges 6 feet or more above lower levels was not protected from falling by guardrail systems with toeboards, safety net systems, or personal fall arrest systems:

a) Jobsite, 158 Huch Road, Mars, PA: On or before June 1, 2020, six workers of the subcontractors worked on the roof 20-40 feet above the ground without fall protection.

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

**Corrected During Inspection**  
**\$134,937.00**

  
\_\_\_\_\_  
**Christopher M. Robinson**  
Area Director

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

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
1000 Liberty Avenue  
Room 905  
Pittsburgh, PA 15222



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Industrial Insulation and Coatings, LLC  
**Inspection Site:** 158 Huch Road, Mars, PA 16046  
**Issuance Date:** 11/25/2020

**Summary of Penalties for Inspection Number:** 1476984

Citation 1 Item 1 , Serious	\$5,398.00
Citation 2 Item 1 , Willful - Serious	\$134,937.00

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<b>TOTAL PROPOSED PENALTIES:</b>	<b>\$140,335.00</b>
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To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically at [www.pay.gov](http://www.pay.gov). At the top of the pay.gov homepage, type "OSHA" in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. The direct link is: <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to two times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest:** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is two percent (2%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

**Delinquent Charges:** A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

**Administrative Costs:** Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



**Christopher M. Robinson**

Area Director

11/25/2020

Date

Secretary v. Industrial Insulation and Coatings, LLC  
OSHRC Docket No. 20-1679  
Secretary's Complaint

Exhibit B

Respondent's Notice of Contest

# CIPRIANI & WERNER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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www.C-WLAW.com

December 18, 2020

Christopher M. Robinson  
Area Director  
OSHA, Pittsburgh Area Office  
U.S. Department of Labor  
1000 Liberty Ave, Rm 905  
Pittsburgh, PA 15222

**RE: Industrial Insulation and Coatings, LLC – Formal Notice of Contest  
Inspection Number 1476984  
Citation 1 and Citation 2 Issued 11/25/2020**

Dear Area Director,

We understand your position based on your e-mail response to our position statement that OSHA is not willing to discuss these citations at an informal conference which was scheduled telephonically for Monday, December 21, 2020 at 10:00 a.m. With that knowledge, we are formally informing you that we contest both citations issued to IIC. In addition, we refuse simplified proceedings and need depositions as well as written discovery. Lastly, we will file our response under the Equal Access to Justice Act. It is unfortunate that you have no desire to discuss these matters at an informal conference and, as such, we are exercising our rights to formally contest these citations.

Sincerely,

*Eric T. Frye*

Eric T. Frye, Esq.  
*Counsel for Industrial Insulation  
and Coatings, LLC*