



Citation and Notification of Penalty

To:
Nemak USA, Inc.
and its successors
4243 Gateway Drive
Sheboygan, WI 53081

Inspection Number: 1343291
Inspection Date(s): 08/30/2018 - 08/30/2018
Issuance Date: 02/26/2019

Inspection Site:
4243 Gateway Drive
Sheboygan, WI 53081

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 920-734-4521. 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 on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. 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. 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 02/26/2019. The conference will be held by telephone or at the OSHA office located at 1648 Tri Park Way, Appleton, WI 54914 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1343291

Company Name: Nematik USA, Inc.
Inspection Site: 4243 Gateway Drive, Sheboygan, WI 53081
Issuance Date: 02/26/2019

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, 1648 Tri Park Way, Appleton, WI 54914**

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



Citation and Notification of Penalty

Company Name: Nematik USA, Inc.

Inspection Site: 4243 Gateway Drive, Sheboygan, WI 53081

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards, that were causing or likely to cause death or serious physical harm to employees in that employees working at or near equipment containing metalworking fluids (MWF) were exposed to microbiological material (endotoxins) that caused hypersensitivity pneumonitis, a debilitating lung disease:

a) The Dial/Cyclone machine required Durakut 525 metalworking fluid (MWF) for the processing of die cast aluminum work pieces. The metal removing stations, the MWF collection and sump system were unenclosed and open to the department's environment. Bulk samples of MWF collected from the Dial Sump Pit contained up to 92,000 Endotoxin Units (EU)/mL. Air samples collected at the workstation of Dial machine operator(s) indicated the presence of airborne endotoxins at a concentration up to 2,420 EU/m³ as an 8-hour Time Weighted Average (TWA).

b) The Boss Line's consisted of multiple machines, including the Tuff CNC machine and Toyoda 9 machine, which both required Durakut 525 metal working fluid (MWF) for the processing of die cast aluminum work pieces. The MWF collection and sump system of the Tuff CNC machine were unenclosed and open to the department's environment. Bulk samples of MWF collected from the Toyoda 9 machine's main compartment contained up to 1,900 Endotoxin Units (EU)/mL. Bulk samples of MWF collected from the open air sump pit of the Tuff CNC machine contained up to 930 EU/mL. Air samples collected at a workstation between the Boss Line and Dial/Cyclone indicated the presence of airborne endotoxins at a concentration up to 341 EU/m³ as an 8-hour Time Weighted Average (TWA).

Among other methods, some feasible and acceptable means of abatement include, but are not limited to the following:

a) Enclose all processes dependent on MWFs (including but not limited to operations on the Dial/Cyclone and Boss Line machines) to minimize aerosolizing of MWF and its biological material.

b) Install local exhaust ventilation (LEV) and mist collection systems for capture and control of MWF and its aerosolized biological material. Ensure that a preventive maintenance schedule is implemented,

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



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which at a minimum includes daily inspections of the engineering control systems (e.g. magnahelic airflow pressure gauges); checking and changing filters at regularly scheduled intervals specified by the mist collector manufacturer and dependent on production demands.

- c) Add time-delays on door openings where practicable and leave enclosure doors closed until the LEV clears mist inside the machine, and stop the delivery of MWF when machining has completed.
- d) Evaluate engineering and design specifications and requirements related to the delivery of MWF to the work piece/cut zone to develop strategies for delivering MWF at low pressures, using techniques that minimize mist creation.
- e) Avoid using compressed airlines for removing MWF and/or reduce compressed airline pressure to a level as low as practical to minimize mist emissions. Consider installation of LEV for work with compressed air or use of compressed airlines fitted with shields to minimize splash back on the operator.
- f) Work with the MWF supplier to enhance the MWF maintenance, testing and evaluation protocol to prevent conditions promoting biological growth. Continue to assess parameters linked with bacterial contamination of MWF, including but not limited to MWF concentration, pH, Tramp Oil, metal contamination, operating temperature, agitation and flow. Continue the regular monitoring program for checking microbial growth in MWF. Use this information to determine and implement fluid change intervals, fluid inactivity periods, and/or take other mitigating steps such as addition of biocides to the MWF or switching to another MWF product/brand.
- g) Implement and/or revise protocol(s) for cleaning out and for removal of MWF and emergency spillage procedures, including but not limited to: steps for draining MWF from equipment, cleaning surfaces of biological build-up (slime), skimming of tramp oil; sump sucker and replacement of filtering media. Apply biocide directly to the pump if there is evidence of high levels of bacteria in the previous MWF. Ensure the sump, flexible hoses and connections are free from debris and sludge. Do not return recovered MWF to sump without first ensuring its quality is acceptable for use.
- h) Provide employees with adequate respiratory protection, in compliance with 29 CFR 1910.134, while working in areas where known respiratory issues are occurring.

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



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- i) Ensure workers understand and identify the health hazards of MWFs including its biological hazards and associated signs and symptoms. Provide training to employees on how to protect themselves when working with MWF, and how to identify possible equipment malfunctions and issues with the fluid: e.g. the presence of unusual odors or MWF colors, which may indicate growth of bacteria.

- j) Encourage employees to report health concerns to the facility's health unit including any instances of skin disease (e.g. dermatitis) and lung disease (e.g. unexplained coughing, recurrent chest infections, breathing difficulty). If a case of occupational asthma or hypersensitivity pneumonitis is suspected or diagnosed, the facility's designated occupational health provider should carry out, with informed consent, a survey of all exposed employees to identify if other operators are at risk.

- k) At regularly scheduled intervals, conduct Industrial Hygiene surveys that evaluate the airborne MWF levels, the airborne endotoxin levels with MWF provenance, and the microbial levels in MWF.
 - 1. Consider the guidelines set for by the National Institute for Occupational Safety and Health (NIOSH) in 1998 in its publication: Criteria for a Recommended Standard: Occupational Exposure to Metalworking Fluids DHHS (NIOSH) Publication Number 98-102 in your IH control strategies for airborne MWF in the workplace.
 - 2. Consider the guidelines set forth by the Dutch Expert Committee on Occupational Safety (DECOS) in 2010 in its publication: Endotoxins: health-based recommended occupational exposure limit. The Hague; document No. 2010/04OSH in your IH control strategies for airborne endotoxins derived from MWF in the workplace.
 - 3. Consider the guidelines set forth by the United Kingdoms Health and Safety Executive for monitoring and controlling the microbial growth in your MWF maintenance and control strategies. <http://www.hse.gov.uk/metalworking/bacterial.htm>

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	05/06/2019
Proposed Penalty:	\$13260.00

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



Citation and Notification of Penalty

Company Name: Nematik USA, Inc.
Inspection Site: 4243 Gateway Drive, Sheboygan, WI 53081

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

29 CFR 1910.134(d)(1)(iii): The employer shall identify and evaluate the respiratory hazard(s) in the workplace; this evaluation shall include a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the contaminant's chemical state and physical form. Where the employer cannot identify or reasonably estimate the employee exposure, the employer shall consider the atmosphere to be IDLH:

The employer did not identify and evaluate the respiratory hazards in the workplace following the diagnosis of employees in the 1600 Ton 2nd Operations department with hypersensitivity pneumonitis (HP) associated with metalworking fluids (MWF) exposure.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 05/06/2019
Proposed Penalty: \$13260.00

A handwritten signature in blue ink that reads "Robert J. Bonack".

Robert J. Bonack
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914



INVOICE / DEBT COLLECTION NOTICE

Company Name: Nematik USA, Inc.
Inspection Site: 4243 Gateway Drive, Sheboygan, WI 53081
Issuance Date: 02/26/2019

Summary of Penalties for Inspection Number	1343291
Citation 1, Serious	\$26520.00
TOTAL PROPOSED PENALTIES	\$26520.00

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 on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. 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 2 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 one percent (1%). 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.



Robert J. Bonack
Area Director

February 26, 2019

Date