

of brake components such as brake cylinders for the automotive industry.

Information shows that some workers separated from employment at the subject firm had their wages reported under a separated unemployment insurance (UI) tax account under the name Kelsey-Hayes Company, a subsidiary of TRW Automotive.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of brake components such as brake cylinders for the automotive industry.

The amended notice applicable to TA-W-70,907 is hereby issued as follows:

All workers of TRW Automotive, Kelsey-Hayes Company, NABS Division, Mt. Vernon, Ohio, who became totally or partially separated from employment on or after June 2, 2008 through August 25, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 22nd day of June 2010.

**Elliott S. Kushner,**  
Certifying Officer, Division of Trade  
Adjustment Assistance.

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2010-0011]

#### Keystone Steel and Wire Company; Notice of Application for a Permanent Variance, Grant of an Interim Order, and Request for Comments

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice of application for a permanent variance; grant of an interim order.

**SUMMARY:** Keystone Steel and Wire Company (KSW) is applying for a permanent variance from the provisions of the OSHA standards that regulate occupational exposure to lead and arsenic, specifically paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. These provisions prohibit the use of

compressed air to clean floors and other surfaces where lead and arsenic particulates accumulate. This notice seeks public comment on the alternative conditions proposed by KSW to protect its workers when they use compressed air to remove lead and arsenic particulates from inside the housings of crane motors.

**DATES:** Submit comments and requests for a hearing on or before August 2, 2010. The interim order specified by this notice becomes effective July 1, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

**ADDRESSES:** *Electronic.* Submit comments and requests for a hearing electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile.* OSHA allows facsimile transmission of comments that are 10 pages or fewer in length (including attachments), as well as hearing requests. Send these comments and requests to the OSHA Docket Office at (202) 693-1648; hard copies of these comments are not required. Instead of transmitting facsimile copies of attachments that supplement their comments (e.g., studies and journal articles), commenters may submit these attachments to the OSHA Docket Office, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (i.e., OSHA-2010-0011) so that the Agency can attach them to the appropriate comments.

*Regular mail, express delivery, hand (courier) delivery, and messenger service.* Submit three copies of comments and any additional material (e.g., studies and journal articles), as well as hearing requests, to the OSHA Docket Office, Docket No. OSHA-2010-0011, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; *telephone:* (202) 693-2350. Contact the OSHA Docket Office at (202) 693-2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office and Department of Labor are 8:15 a.m. to 4:45 p.m., e.t.

*Instructions.* All submissions must include the Agency name and the OSHA docket number (i.e., OSHA-2010-0011). OSHA places comments and other

materials, including any personal information, in the public docket without revision, and these materials may be available online at <http://www.regulations.gov>. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

*Docket.* To read or download submissions or other material in the docket, go to <http://www.regulations.gov> or to the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

**FOR FURTHER INFORMATION CONTACT:** *General information and press inquiries.* For general information and press inquiries about this notice contact Jennifer Ashley, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693-1999.

*Technical information.* For technical information about this notice, contact MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N-3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693-2110; *fax:* (202) 693-1644.

*Copies of this Federal Register notice.* Electronic copies of this notice are available at <http://www.regulations.gov>. Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web page at <http://www.osha.gov>.

#### I. Notice of Application

Keystone Steel and Wire Company (hereafter, "KSW" or "the applicant"), 7000 SW. Adams Street, Peoria, IL 61641,<sup>1</sup> submitted an application for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 ("OSH Act"; 29 U.S.C. 655) and 29 CFR 1905.11 ("Variances and other relief under section 6(d)") (see Exhibit 1: KSW's original variance application dated 09/10/1998).

The applicant seeks a permanent variance from the provisions of the

<sup>1</sup> This address also is the place of employment described in the application.

OSHA standards that regulate occupational exposure to lead and arsenic, specifically paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. These paragraphs prohibit use of compressed air to clean floors and other surfaces where lead and arsenic particulates accumulate. These paragraphs specify the following requirements:

*29 CFR 1910.1025(h)(2)(i):* Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

*29 CFR 1910.1018(k)(2): Cleaning floors.* Floors and other accessible surfaces contaminated with inorganic arsenic may not be cleaned by the use of compressed air, and shoveling and brushing may be used only where vacuuming or other relevant methods have been tried and found not to be effective.

The applicant contends that the permanent variance would provide its workers with a place of employment that is at least as safe and healthful as they would obtain under these standards.

The applicant certifies that it provided the union representative<sup>2</sup> with a copy of its variance application. The applicant also certifies that it notified its workers of the variance request by posting a summary of the application at a prominent location where it normally posts notices to its workers, and specifying where the workers can examine a complete copy of the application. In addition, the applicant states that it informed workers and the union representative of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on this variance application.

## II. Supplementary Information

### A. Overview

The applicant operates a melt shop where it processes scrap steel into a molten state. The equipment used to accomplish the melting process consists of: An electric-arc furnace, which uses an electric arc generated from electrodes to melt the scrap steel; and a ladle metallurgy furnace, which uses electrodes to maintain the molten steel at a constant temperature to produce the proper consistency of steel. The melting process requires the use of two overhead cranes to haul the scrap to the furnaces, and to transport the molten steel for further processing. Ten large, direct-current electric motors power each crane.

During the melting process, fugitive emissions containing trace amounts of lead and arsenic accumulate inside the

motor housings of the overhead cranes.<sup>3</sup> To prevent electric arcing, KSW must remove the accumulated particulates from inside the crane-motor housings. To accomplish this task, KSW uses compressed air supplemented by a vacuum-containment system (*see* Exhibit 16: KSW's amended application dated 04/02/2009). To demonstrate the effectiveness of this system, KSW performed several rounds of personal-exposure monitoring for the workers who use the system to remove particulates from inside the crane-motor housings. Results of the sampling (*see* Exhibit 16: KSW's amended application dated 04/02/2009) indicate that worker exposures were below the action level of 30 micrograms of lead per cubic meter of air ( $\mu\text{g}/\text{m}^3$ )<sup>4</sup> and 5  $\mu\text{g}/\text{m}^3$  of inorganic arsenic<sup>5</sup> during two consecutive rounds of sampling.

### B. Summary of KSW's Variance-Application Process

On April 2, 2009, KSW submitted an amended variance application (*see* Exhibit 16: KSW's amended application dated 04/02/2009) requesting a permanent variance from paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. The amended application was the latest in a sequence of variance applications and related correspondence that dates to 1998. These documents, each identified by its exhibit numbers, are:

*Exhibit 1:* KSW's original variance application dated 09/10/1998.

*Exhibit 2:* OSHA letter dated 10/19/1998 to KSW denying the application.

*Exhibit 3:* KSW's second application dated 08/26/1999.

*Exhibit 4:* KSW letter dated 09/02/1999 to OSHA describing engineering controls.

*Exhibit 5:* OSHA letter dated 09/08/1999 to KSW acknowledging receipt of the second application.

*Exhibit 6:* OSHA letter dated 07/06/2003 to KSW requesting additional information.

*Exhibit 7:* KSW letter dated 09/08/2003 to OSHA acknowledging receipt OSHA's letter of 07/06/2003.

*Exhibit 8:* KSW letter dated 06/18/2004 to OSHA providing additional information.

*Exhibit 9:* OSHA letter dated 10/22/2005 to KSW requesting an amended application.

*Exhibit 10:* KSW's amended application dated 11/27/2006.

<sup>3</sup> The facility has local exhaust ventilation on the furnaces and a canopy hood for the entire melt shop that captures most of the fugitive emissions.

<sup>4</sup> *See* § 1910.1025(b).

<sup>5</sup> *See* § 1910.1018(b).

*Exhibit 11:* OSHA letter dated 05/28/2008 to KSW requesting additional information.

*Exhibit 12:* KSW letter dated 10/29/2008 to OSHA providing additional information.

*Exhibit 13:* OSHA letter dated 12/05/2008 to KSW requesting additional information.

*Exhibit 14:* KSW letter dated 02/13/2009 to OSHA providing additional information.

*Exhibit 15:* KSW letter dated 04/02/2009 to OSHA submitting an amended application.

*Exhibit 16:* KSW's amended application dated 04/02/2009.

*Exhibit 17:* OSHA letter dated 02/16/2010 to KSW proposing alternative conditions.

*Exhibit 18:* KSW letter dated 03/09/2010 accepting OSHA's proposed alternative conditions.<sup>6</sup>

### C. Proposed Alternative to 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2)

The applicant states that it is necessary to use compressed air in combination with a vacuum-containment system to completely remove particulates containing lead and arsenic from inside crane-motor housings during periodic maintenance operations. Paragraph (h)(2)(i) of 29 CFR 1910.1025 regulates housekeeping operations involving lead contamination, and prohibits the use of compressed air for cleaning floors and other surfaces. Paragraph (k)(2) of 29 CFR 1910.1018 duplicates this housekeeping requirement for arsenic contamination. Compliance with these two paragraphs prevents exposure of workers (through inhalation) to unsafe airborne concentrations of lead and arsenic particulates that would occur if employers use compressed air for cleaning purposes.<sup>7</sup>

As an alternative to complying with the housekeeping requirements specified by 29 CFR 1910.1025(h)(2) and 1910.1018(k)(2), the applicant proposes to adopt an alternative means of compliance that consists, in part, of a compressed-air-vacuum-containment

<sup>6</sup> *See also* the following reference documents included in KSW's amended variance application of 11/27/2006: Exhibit 19: KSW's *Arsenic, Lead and Cadmium Control Program*; Exhibit 20: KSW's *Respiratory Protection Program*; and Exhibit 21: KSW's *Safe Job Procedure*.

<sup>7</sup> *See, e.g.,* the preamble to paragraph (h) of the final Lead standard (43 *Federal Register*, vol. 43, p. 52994, November 14, 1978), which noted language from the proposed standard stating that "the proposed language for this provision required 'surfaces to be maintained free of accumulation of lead which, if dispersed, would result in airborne concentrations above the permissible exposure limit.'"

<sup>2</sup> Mr. Tim Carroll, representative of the Independent Steel Workers Alliance (ISWA) local union in Bartonville, IL.

(CAVC) system mounted on a truck. A worker begins the crane-motor cleaning operation by inserting the nozzle of the compressed-air gun into an opening in the housing, then triggers the compressed air. The vacuum-containment system, which the worker activates prior to beginning the motor-cleaning operation, generates exhaust airflow inside the crane-motor housing. The vacuum, delivered through a hose, has an exhaust volume of 5,000 cubic feet per minute (cfm), and collects the lead and arsenic particulates that the worker removes with compressed air from the interior components of the crane motor. The system then deposits the particulates in a hopper, also mounted on the truck.

KSW designed a flanged end that fits over an opening in a housing that covers each crane motor (see Exhibit 15). The vacuum hose is connected to, and is supported by, this flange. Thus, the combination of the housing, flanged end, compressed air, and the vacuum-containment system captures most of the fugitive particulates released during the motor-cleaning operation, thereby reducing worker exposure to airborne lead and arsenic.

In support of its variance application, KSW submitted the following data and information demonstrating the effectiveness of the alternative means of compliance:

1. KSW administered several rounds of personal-exposure monitoring to workers who used compressed air while cleaning the crane motors. The results for the last two rounds of sampling for both lead and arsenic were below the action levels for these substances (see Exhibit 15).

2. KSW performed several rounds of medical surveillance, including biological monitoring for blood lead and zinc protoporphyrin concentrations, on workers who cleaned crane motors. Blood-lead monitoring results were well below the allowable concentration of 40 µg lead/100 g whole blood (see Exhibit 15).

3. KSW developed and implemented a *Respiratory Protection Program* designed to meet the requirements specified by 29 CFR 1910.134 and 29 CFR 1910.1025(f) (see Exhibit 20).

4. KSW developed and implemented an *Arsenic, Lead, & Cadmium Control Program* to meet the requirements specified by 29 CFR 1910.1018, 29 CFR 1910.1025, and 29 CFR 1910.1027, respectively (see Exhibit 19).

5. KSW developed and implemented a *Safe Job Procedure* incorporating key elements of a job-hazard analysis. This document provides affected workers with a description of the steps required

to complete the cleaning task, and the hazards associated with, and control methods used for, each of these steps (e.g., using vacuum exhaust in conjunction with compressed air, the type of protective clothing and other PPE to wear) (see Exhibit 21).

6. KSW developed and implemented a program to instruct affected workers about the hazards associated with performing motor-cleaning operations, and the hazard controls used while performing these operations (see Exhibit 15).

In addition to the CACV, the applicant proposes to include the following conditions in its alternative means of compliance:

#### Engineering Controls and Related Conditions

1. Implement engineering controls (i.e., a compressed-air-vacuum-containment (CAVC) system) that maintain negative pressure inside the housing enclosing each crane motor when using compressed air to clean crane motors; this condition ensures that the exhaust airflow leaving the enclosure exceeds the inflow of compressed air by maintaining the volume of compressed air below 5,000 cfm. This condition effectively prevents escape of lead and arsenic particulates from the crane-motor housing.

2. To prevent the spread and recirculation of captured lead and arsenic particulates from the vacuum truck, ensure that: (a) The exhaust air in the CVAC system passes through a high-efficiency particulate air (HEPA) filtration system prior to discharge; and (b) this filtered exhaust does not reenter the work areas inside the plant.

3. Ensure the continued effectiveness of the alternative means of compliance by: (a) Performing a pre-use or yearly inspection (whichever occurs more frequently) of all equipment and components used in the cleaning operations;<sup>8</sup> (b) documenting such inspections using a checklist; (c) replacing or repairing all defective parts and components; and (d) maintaining records of inspections and corrective actions. This condition ensures that the equipment performs continuously at optimum effectiveness, thereby minimizing release of lead and arsenic particulates into the ambient

<sup>8</sup> Examples of the equipment or components listed on the checklist include: Air compressors; pressure regulators; gages; compressed-air hoses; nozzle-pressure reducer; crane-motor enclosures; flanges; vacuum-system operations, including the HEPA filtration system and replacement of used filters; vacuum hoses; and electric outlets and extension cords used during the cleaning process.

atmosphere during the crane motor-cleaning operation.

4. Before implementing revisions to the motor-cleaning process, modify the *Safe Job Procedure* (see Exhibit 21) accordingly, and inform affected workers of the modifications. This condition promptly informs and updates workers performing the crane motor-cleaning operation of revisions to work procedures and safety practices, thereby reducing the possibility that they could compromise the effectiveness of the CACV system and other protective measures.

#### Exposure Monitoring

5. Perform personal-exposure monitoring (i.e., breathing-zone sampling) of the workers for lead and arsenic particulates during the entire period they use compressed air to clean crane motors. For multiple crane motor-cleaning operations during the same maintenance cycle, perform such monitoring on at least two operations that are representative of exposures for all affected workers performing cleaning operations during the cycle. This condition allows KSW to monitor worker exposure to lead and arsenic particulates outside the crane-motor housing during the cleaning operation. KSW would use these monitoring results to determine the effectiveness of the CACV system, and to take corrective action if exposures are at or above the action levels for lead or arsenic.

6. Conduct breathing-zone sampling of affected workers for the entire work day (full shift) on days when workers use compressed air to clean crane motors. The full-shift sampling must include separate sampling during the crane motor-cleaning operation, as well as during the remainder of the shift. This condition would assist KSW in identifying the source of elevated exposures (i.e., at or above the action level) that occur during the shift so that it can correct or implement appropriate exposure-control measures to reduce worker exposures below the action levels for lead and arsenic.

7. Ensure that results for the two most recent rounds of full-shift sampling remain below the action levels for arsenic and lead. This condition ensures that KSW can maintain worker exposure levels below the action levels for lead and arsenic, thereby providing them with a safe and healthful workplace.

8. Submit the breathing-zone samples for lead and arsenic particulates to an analytical laboratory that meets and complies with the certification criteria of the American Industrial Hygiene Association's Industrial Hygiene Proficiency Analytical Testing Program.

This condition provides assurance that the laboratory is performing the testing of breathing-zone samples in accordance with recognized analytical standards to maintain the accuracy, reliability, and reproducibility of the sampling results. Accurate, reliable, and reproducible sampling results ensure that worker exposure determinations are valid.

#### Biological Monitoring

9. Within 30 calendar days after workers perform a motor-cleaning operation, conduct biological monitoring for blood-lead and zinc protoporphyrin concentrations on every worker involved in that motor-cleaning operation. Blood-lead sample analysis must be performed by a laboratory licensed by the U.S. Centers for Disease Control and Prevention (CDC), or a laboratory that obtained a satisfactory grade in blood-lead proficiency testing from CDC within the prior 12 months and has an accuracy (to a confidence level of 95 percent) within  $\pm 15$  percent or 6  $\mu\text{g}/100$  ml, whichever is greater. This condition provides information (in addition to exposure monitoring) regarding worker exposure to lead particulates while involved in the crane motor-cleaning operation, and demonstrates the effectiveness of the alternative means of compliance. This condition also provides assurance that the laboratory is performing the analysis of blood-lead samples in accordance with recognized analytical standards to maintain the accuracy, reliability, and reproducibility of the sampling results.

10. Ensure that blood-lead results remain at or below 40  $\mu\text{g}$  lead/100 g whole blood. This condition supplements other conditions in providing information on the effectiveness of the alternative means of compliance, in addition to signaling the need to remove affected workers from the crane motor-cleaning operations in accordance with 29 CFR 1910.1025(k) should the blood-lead results exceed 40  $\mu\text{g}$  lead/100 g whole blood.

11. Whenever KSW assigns a new worker to perform the crane motor-cleaning operation, conduct biological monitoring of the worker prior to the worker beginning the cleaning operation. This condition establishes a baseline blood-lead level against which to compare subsequent biological samples and, thereby, assess the effectiveness of the alternative means of compliance.

12. Not assign any worker to the crane motor-cleaning operation who declines to undergo the biological-monitoring procedures. This condition prevents worker exposure to the motor-cleaning operation without the benefit of

biological monitoring to assess over-exposure to lead particulates.

#### Notifications

13. Provide written notification to affected workers of the results of their individual personal-exposure and biological-monitoring results in accordance with the requirements of the arsenic and lead standards (29 CFR 1910.1018(e)(5) and 29 CFR 1910.1025(d)(8)) within 15 working days from receipt of the results. The information provided to the affected workers will enable them to assess the effectiveness of the alternative means of compliance, i.e., the adequacy of existing controls or the need for additional controls.

14. Whenever (a) personal-exposure monitoring results are at or above the action levels for lead (30  $\mu\text{g}/\text{m}^3$ ) or arsenic (5  $\mu\text{g}/\text{m}^3$ ), or (b) blood-lead monitoring results are above 20  $\mu\text{g}$  lead/100 g whole blood, provide these results to OSHA's Peoria, IL, Area Office, OSHA's Chicago, IL, Regional Office, and OSHA's Office of Technical Programs and Coordination Activities within 15 working days of receiving the results, along with a written plan describing how KSW will reduce exposure levels or blood-lead levels. This condition will ensure that OSHA remains informed regarding the effectiveness of the alternative means of compliance, and will provide OSHA with an opportunity to assess KSW's plan to reduce exposures to lead and arsenic below the action levels for these substances. Under this condition, OSHA also can evaluate KSW's progress in restoring the effectiveness of the alternative means of compliance, and, if necessary, revise the conditions or revoke the variance should KSW not attain exposure levels below the action levels in a timely manner.

15. At least 15 calendar days prior to commencing any operation that involves using compressed air to clean crane motors, inform OSHA's Peoria, IL, Area Office and OSHA's Chicago, IL, Regional Office of the date and time the operation will commence. This condition provides OSHA with an opportunity to conduct on-site assessments of KSW's compliance with the conditions of the variance, and to ascertain directly the effectiveness of the alternative means of compliance.

16. Notify in writing OSHA's Office of Technical Programs and Coordination Activities as soon as KSW knows that it will: (a) Cease to do business; or (b) transfer the activities covered by the variance to a successor company. This condition allows OSHA to determine whether to revoke the variance or

transfer the variance to the successor company.

#### Training

17. Implement the worker-training programs described in 29 CFR 1910.1018(o) and 29 CFR 1910.1025(l), including: (a) Initial training of new workers prior to their beginning a crane motor-cleaning operation; (b) yearly refresher training of all other workers involved in crane motor-cleaning operations; (c) documentation of this training; and (d) maintenance of the training records.<sup>9</sup> This condition ensures that workers are knowledgeable regarding the hazards and corresponding hazard-control measures KSW implements to prevent worker exposure to harmful levels of airborne lead and arsenic particulates while engaged in the crane motor-cleaning. Training also provides workers with information necessary for them to assess KSW's compliance with the conditions of the variance and the effectiveness of the alternative means of compliance.

#### Miscellaneous Program Conditions

18. Implement the: (a) *Respiratory Protection Program* that meets the requirements specified by 29 CFR 1910.134 and 29 CFR 1910.1025(f); (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program*; and (c) provisions of the *Safe Job Procedure*. This condition ensures that KSW will implement the programs and associated safe-work practices that prevent worker exposure to harmful levels of airborne lead and arsenic particulates while engaged in crane motor-cleaning operations, which are necessary for the continued effectiveness of the alternative means of compliance.

#### Monitoring Work Practices

19. Ensure that supervisors observe and enforce applicable safe-work practices<sup>10</sup> while workers are cleaning crane motors, document these supervisor observations and enforcement activities, and maintain these records. This condition ensures that affected workers implement the required safe-work practices during crane-motors cleaning operations. This condition will permit OSHA, KSW managers, workers, and worker representatives to assess compliance with the conditions of the variance and,

<sup>9</sup> As described by KSW's *Arsenic, Lead, & Cadmium Control Program* (see Exhibit 19).

<sup>10</sup> Examples of safe-work practices include use of personal-protective equipment (including respirators, gloves, protective clothing) as defined by (a) KSW's *Respiratory Protection Program*; (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program*; and (c) provisions of KSW's *Safe Job Procedure*.

therefore, determine the effectiveness of the alternative means of compliance.

#### Record Retention and Availability

20. Retain any records generated under these conditions for a minimum period of five years, unless an applicable OSHA standard specifies a longer period,<sup>11</sup> and make these records available to OSHA, affected workers, and worker representatives on request. This condition allows OSHA, KSW managers, workers, and worker representatives to assess the effectiveness of the alternative means of compliance over an extended period, and provides baseline measurements against which to evaluate the effectiveness of subsequent revisions made to the alternative means of compliance.

### III. Grant of Interim Order

OSHA is granting KSW an interim order that will remain in effect until the Agency makes a decision on KSW's application for a permanent variance, or until the Agency modifies or revokes the interim order. During this period, KSW must comply fully with the conditions of the interim order as an alternative to complying with housekeeping requirements specified by 29 CFR 1910.1025(h)(2) and 29 CFR 1910.1018(k)(2).

OSHA believes that an interim order is justified in this case. As noted above in Section II.C ("Proposed Alternative to 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2)") of this notice, the applicant provided exposure and medical data and information demonstrating that the proposed alternative means of compliance was as effective as 29 CFR 1910.1025(h)(2) and 29 CFR 1910.1018(k)(2) in protecting workers from exposure to lead and arsenic particulates during crane-motor cleaning operations. In this regard, the personal-exposure monitoring results were below the action levels mandated for lead and arsenic exposure, and the medical-surveillance results, including biological monitoring for blood lead and zinc protoporphyrin concentrations, also were well below the allowable concentration of 40 µg lead/100 g whole blood.

Based on its determination that the alternative means of compliance proposed by KSW will protect workers from exposure to lead- and arsenic-particulate hazards during crane-motor cleaning operations at least as

effectively as the requirements of 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2), OSHA is granting an interim order to the applicant pursuant to the provisions of 29 CFR 1905.11(c). Accordingly, instead of complying with 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2), the applicant will: (1) Provide notice of this grant of an interim order to the workers affected by the conditions of the interim order using the same means it used to inform these workers of its application for a permanent variance; and (2) comply with the conditions listed below in Section IV ("Specific Conditions of the Interim Order and the Application for a Permanent Variance") of this notice for the period between the date of this **Federal Register** notice and the date the Agency publishes its final decision on the application in the **Federal Register**. The interim order will remain in effect between the date of this **Federal Register** notice and the date the Agency publishes its final decision on the application in the **Federal Register** unless OSHA modifies or revokes it in accordance with the requirements of 29 CFR 1905.13.

### IV. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order granted by OSHA to Keystone Steel and Wire as part of its application for a permanent variance described in this **Federal Register** notice. In addition, these conditions specify the alternative means of compliance that the applicant is proposing in its application for a permanent variance. These conditions include:<sup>12</sup>

#### 1. Scope

(a) The interim order/permanent variance applies/would apply only at the applicant's melt shop when using compressed air to clean crane motors during maintenance operations.

(b) *Engineering controls and related conditions.* The applicant must/would:

(1) Use engineering controls (*i.e.*, a compressed-air-vacuum-containment (CAVC) system) that maintain negative pressure inside the housing enclosing each crane motor when using compressed air to clean crane motors to ensure that the vacuum-exhaust airflow leaving the enclosure exceeds the inflow of compressed air by maintaining the volume of compressed air below 5,000 cfm.

(2) Ensure that the:

(A) Exhaust air in the CAVC system passes through a high-efficiency particulate air (HEPA) filtration system prior to discharge; and

(B) Filtered exhaust does not reenter the work areas inside the plant.

(3) Ensure the continued effectiveness of the alternative means of compliance by:

(A) Performing a pre-use or yearly inspection (whichever occurs more frequently) of all equipment and components used in the cleaning operations;<sup>13</sup>

(B) Documenting such inspections using a checklist;

(C) Replacing or repairing all defective parts and components; and

(D) Maintaining records of inspections and corrective actions.

(4) Before implementing revisions to the motor-cleaning process, modify the *Safe Job Procedure* accordingly, and inform affected workers of the modifications.

(c) *Exposure monitoring.* The applicant must/would:

(1) Perform personal-exposure monitoring (*i.e.*, breathing-zone sampling) of the workers for lead and arsenic particulates during the entire period they use compressed air to clean crane motors. For multiple crane motor-cleaning operations during the same maintenance cycle, perform such monitoring on at least two operations that are representative of exposures for all affected workers performing cleaning operations during the cycle.

(2) Conduct breathing-zone sampling of affected workers for the entire work day (full shift) on days when workers use compressed air to clean crane motors. The full-shift sampling must/would include separate sampling during the crane motor-cleaning operation, as well as during the remainder of the shift.

(3) Ensure that results for the two most recent rounds of full-shift sampling remain below the action level for arsenic and lead.

(4) Submit the breathing-zone samples for lead and arsenic particulates to an analytical laboratory that meets and complies with the certification criteria of the American Industrial Hygiene Association's Industrial Hygiene Proficiency Analytical Testing Program.

(d) *Biological monitoring.* The applicant must/would:

<sup>13</sup> Examples of the equipment or components listed on the checklist include: Air compressors; pressure regulators; gages; compressed-air hoses; nozzle-pressure reducer; crane-motor enclosures; flanges; vacuum-system operations, including the HEPA filtration system and replacement of used filters; vacuum hoses; and electric outlets and extension cords used during the cleaning process.

<sup>11</sup> For example, § 1910.1025(n)(1)(iii) and (n)(2)(iv) require employers to retain lead exposure-monitoring records and medical records for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

<sup>12</sup> In these conditions, the verb "must" applies to the interim order, while the verb "would" pertains to the application for a permanent variance.

(1) Within 30 calendar days after workers perform a motor-cleaning operation, conduct biological monitoring for blood-lead and zinc protoporphyrin concentrations on every worker involved in that motor-cleaning operation. Blood-lead sample analysis must be performed by a laboratory licensed by the U.S. Centers for Disease Control and Prevention (CDC), or a laboratory that obtained a satisfactory grade in blood-lead proficiency testing from CDC within the prior 12 months and has an accuracy (to a confidence level of 95 percent) within  $\pm 15$  percent or 6  $\mu\text{g}/100$  ml, whichever is greater.

(2) Ensure that blood-lead results remain at or below 40  $\mu\text{g}$  lead/100 g whole blood.

(3) Whenever KSW assigns a new worker to perform the crane motor-cleaning operation, conduct biological monitoring of the worker prior to the worker beginning the cleaning operation.

(4) Not assign any worker to the crane motor-cleaning operation who declines to undergo the biological-monitoring procedures.

(e) *Notifications.* The applicant must/would:

(1) Provide written notification to affected workers of the results of their individual personal-exposure and biological-monitoring results in accordance with the requirements of the arsenic and lead standards (29 CFR 1910.1018(e)(5) and 29 CFR 1910.1025(d)(8)) within 15 working days from receipt of the results.

(2) Whenever personal-exposure monitoring results are at or above the action levels for lead (30  $\mu\text{g}/\text{m}^3$ ) or arsenic (5  $\mu\text{g}/\text{m}^3$ ), or blood-lead monitoring results are above 20  $\mu\text{g}$  lead/100 g whole blood, provide these results to OSHA's Peoria, IL, Area Office, OSHA's Chicago, IL, Regional Office, and OSHA's Office of Technical Programs and Coordination Activities within 15 working days of receiving the results, along with a written plan describing how KSW will reduce exposure levels or blood-lead levels.

(3) At least 15 calendar days prior to commencing any operation that involves using compressed air to clean crane motors, inform OSHA's Peoria, IL, Area Office and OSHA's Chicago, IL, Regional Office of the date and time the operation will commence.

(4) Notify in writing OSHA's Office of Technical Programs and Coordination Activities as soon as KSW knows that it will:

(A) Cease to do business; or

(B) Transfer the activities covered by the variance to a successor company.

(f) *Training.* The applicant must/would implement the worker-training programs described in 29 CFR 1910.1018(o) and 29 CFR 1910.1025(l), including:

(A) Initial training of new workers prior to their beginning a crane motor-cleaning operation;

(B) Yearly refresher training of all other workers involved in crane motor-cleaning operations;

(C) Documentation of this training; and

(D) Maintenance of the training records.<sup>14</sup>

(g) *Miscellaneous program conditions.* The applicant must/would implement the:

(A) *Respiratory Protection Program* that meets the requirements specified by 29 CFR 1910.134 and 29 CFR 1910.1025(f);

(B) Provisions of KSW's *Arsenic, Lead, & Cadmium Control Program*; and

(C) Provisions of the *Safe Job Procedure*.

(g) *Monitoring work practices.* The applicant must/would ensure that supervisors:

(1) Observe and enforce applicable safe-work practices<sup>15</sup> while workers are cleaning crane motors;

(2) Document these supervisor observations and enforcement activities; and

(3) Maintain these records.

(h) *Record retention and availability.* The applicant must/would:

(1) Retain any records generated under these conditions for a minimum period of five years, unless an applicable OSHA standard specifies a longer period;<sup>16</sup> and

(2) Make these records available to OSHA, affected workers, and worker representatives on request.

## V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC, directed the preparation of this notice. This notice is issued under the authority specified by Section 6(d) of the Occupational Safety

<sup>14</sup> As described by KSW's *Arsenic, Lead, & Cadmium Control Program*.

<sup>15</sup> Examples of safe-work practices include use of personal-protective equipment (including respirators, gloves, protective clothing) as defined by (a) KSW's *Respiratory Protection Program*; (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program*; and (c) provisions of KSW's *Safe Job Procedure*.

<sup>16</sup> For example, § 1910.1025(n)(1)(iii) and (n)(2)(iv) require employers to retain lead exposure-monitoring records and medical records for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5-2007 (72 FR 31160), and 29 CFR part 1905.

Signed at Washington, DC on June 28, 2010.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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**BILLING CODE 4510-26-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA-W) number issued during the period of June 7, 2010 through June 11, 2010.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services