

OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DHS-0920-000839

Underlying/State Agency Action No.: 355035

Winona Building Products, LLC,
Petitioner,

v.

Indiana Department of Homeland Security,
Respondent.

NON-FINAL ORDER OF DISMISSAL

On December 15, 2020, the parties submitted an Agreed Order and Stipulation of Dismissal. **Accordingly, the Administrative Law Judge now enters this Non-Final Order of Dismissal.** The ultimate authority in this matter is the Fire Prevention and Building Safety Commission.

Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file the objection with the Commission within fifteen (15) days after the service of this order. The objection must be in writing and must identify the basis for the objection with reasonable particularity.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Ind. Code § 4-21.5-3-29(c). **The Commission will consider this Non-Final Order of Dismissal on January 5, 2021 at 9:00 a.m. (EST) in Room 211 of the Indiana State Library, 315 W. Ohio Street, Indianapolis, IN 46202.** If the Commission's meeting must be conducted electronically/remotely due to the ongoing COVID-19 public health emergency, details will be provided on the [Commission's main web page](#) in advance of the meeting date.

So Ordered: December 16, 2020



Hon. Chelsea E. Smith, Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distributed to Parties:

Jamie Visker

Representative for Petitioner

506 North Street

Plymouth, IN 46563

jvisker@winonabp.com

(317) 409-3424

Via U.S. Mail and Email

Justin Guedel

Counsel for Respondent

Indiana Department of Homeland Security

302 W. Washington Street, Room E-208

Indianapolis, IN 46204

jguedel@dhs.in.gov

(317) 234-9515

Via E-mail

OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DHS-0920-000839
Underlying/State Agency Action No.: 355035

Winona Building Products, LLC, Petitioner,	
v.	
Indiana Department of Homeland Security, Respondent.	

AGREED ORDER AND STIPULATION OF DISMISSAL

The parties respectfully request the petition for review of this action be dismissed. In support of this request, the parties state the following:

1. On July 28, 2020, Respondent performed an inspection of Petitioner's device and issued a report of inspection, in relevant part, finding that the device was regulated by the Indiana Boiler and Pressure Vessel Rules and was required to be constructed in accordance with code.
2. On September 14, 2020, Respondent issued an order requiring compliance with the report of inspection.
3. On September 29, 2020, Petitioner filed their petition for review of the order.
4. Following the initiation of this proceeding, the parties were able to informally resolve this case and agreed to the following:

For purposes of falling outside of regulation of the Indiana Boiler or Pressure Vessel Rules, Petitioner will modify the device in question to reduce its heat input to not exceed two hundred thousand (200,000) Btu per hour (or 57 kW) by February 28, 2021 or will cease operation of the device.

WHEREFORE, the parties respectfully request this matter be dismissed with prejudice.

Respectfully submitted,



Jamie Visser, Petitioner



Justin Guedel, Attorney for Respondent

Date: 12-15-20