



# SAFETY DATA SHEET

Revision Date: 3-21-2016

## 1. IDENTIFICATION

**Product Name:** Petroleum Asphalt

**Synonym:** Asphalt Cement (ACs):PG58-28; PG64-22; PG64-28; PG70-22; PG76-22; PG88-22

**Chemical Family:** Asphalt

**Recommended Use:** Road Building & Other Service.  
**Use Restrictions:** All others.

**Supplier Name and Address:**  
**Kokosing Materials Inc.**  
**215 Oak Street**  
**Mansfield, OH 44907**

**SDS information:** 1-419-522-2715

**Emergency Telephone Chemtrec:** 1-800-424-9300

## 2. HAZARD IDENTIFICATION

### Classification

#### **OSHA Regulatory Status**

This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

Skin corrosion/irritation	Category 2
Serious eye damage/eye irritation	Category 2A
Skin sensitization	Category 1A
Carcinogenicity	Category 2
Acute aquatic toxicity	Category 3

#### **Hazards Not Otherwise Classified (HNOC)**

Hot liquid may cause thermal burns  
May release hydrogen sulfide gas

### Label elements

**EMERGENCY OVERVIEW**

**Warning**

Contact with product at elevated temperatures can result in thermal burns  
 May release highly toxic hydrogen sulfide gas that quickly fatigues the sense of smell  
 Causes skin irritation  
 Causes serious eye irritation  
 May cause an allergic skin reaction  
 Suspected of causing cancer  
 Harmful to aquatic life



**Appearance** Black-brown solid or semi-solid at room temperature. Liquid at temperatures >70°C.

**Physical State** Liquid

**Odor** Tar

**Precautionary Statements - Prevention**

Obtain special instructions before use  
 Do not handle until all safety precautions have been read and understood  
 Wear protective gloves/protective clothing/eye protection/face protection  
 Avoid breathing fume/gas/vapors  
 Wash hands and any possibly exposed skin thoroughly after handling  
 Avoid release to the environment

**Precautionary Statements - Response**

IF exposed or concerned: Get medical attention  
 IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing  
 If eye irritation persists: Get medical attention  
 IF ON SKIN: Wash with plenty of soap and water  
 If skin irritation or rash occurs: Get medical attention  
 Take off contaminated clothing and wash before reuse

**Precautionary Statements - Disposal**

Dispose of contents/container at an approved waste disposal plant

**3. COMPOSITION/INFORMATION ON INGREDIENTS**

Petroleum Asphalt is a solid carbon material produced from high temperature vacuum distillation of crude oil. Composition varies depending on source of crude and specifications of final product. Can contain minor amounts of sulfur, nitrogen and oxygen compounds as well as trace amounts of heavy metals such as nickel, vanadium and lead. Composition varies depending on source of crude. Polycyclic aromatic hydrocarbons (3-7 ring) have been found to be present in trace concentrations (<0.01%). Different asphalt grades may also contain an anti-strip additive. Asphalt is considered "air-rectified" as defined by Eurobitume rather than "oxidized" if its Penetration Index is < +2 that is calculated from the values of Penetration and the Softening Point (Asphalt Institute, IS-230).

**Composition Information:**

Name	CAS Number	% Concentration
Asphalt	8052-42-4	100

Styrene/butadiene Copolymer	9003-55-8	0-9
Sulfur Compounds	Mixture	1-5
Polyphosphoric Acids	8017-16-1	0-1
Polyamine	Proprietary	0-1
Evotherm P15	Proprietary	0-1
Hydrogen sulfide	7783-06-4	<0.1
Polycyclic Aromatic Hydrocarbons	Mixture	<0.01

All concentrations are percent by weight unless material is a gas. Gas concentrations are in percent by volume.

## 4. FIRST AID MEASURES

### First Aid Measures

**General advice**

Immediately address any airway, breathing, or circulation concerns. Contact EMS if the person is having trouble breathing, moving, or staying awake. Perform a quick assessment for other injuries that may be present including falls or from falling objects.

REMEMBER ABCC (AIRWAY, BREATHING, CIRCULATION, COOLING).

**Inhalation:**

If symptoms of overexposure to asphalt fume develop, move to fresh air in a position comfortable for breathing. If symptoms or irritation occur, call a poison control center or doctor.

**Skin Contact:**

Hot material: DO NOT DELAY. Immediately immerse or place the affected skin under a water stream for at least 20 minutes. Urgent medical attention is required for burns to the face, eyes, hands, feet, genitalia, and for circumferential or large burn areas. GET MEDICAL ATTENTION IMMEDIATELY.  
Do not attempt to remove solidified asphalt if not a physician. Leave burn uncovered. Ice (or "cold packs") may be used in the event that water is unavailable. Only remove clothing if not adhering to the skin. Be aware that although it is very important to cool the burn thoroughly and completely, the overuse of ice may increase the risk of hypothermia.

Cold material: To remove cold asphalt not associated with a burn, wash with soap and water or waterless cleaner. If symptoms or irritation or rash occur, call a poison control center or doctor.

**Eye Contact:**

Hot material: After contact with hot asphalt, lay the person flat on their back, remove contact lenses if easy to do, and flush with water from a continuous stream for at least 20 minutes by allowing the water to flow over the bridge of the nose to the eyes. GET MEDICAL ATTENTION IMMEDIATELY.

Cold material: If irritation develops, flush eyes with water. If irritation or redness persists call a poison control center or a doctor.

**Ingestion:**

Ingestion not likely. Small amounts of ingested asphalt usually require no treatment. If large amounts are swallowed, call a poison control center or doctor.

**Most important signs and symptoms, both short-term and delayed with overexposure**

**Adverse Effects:**

Frequent or prolonged contact with cold material may cause irritation. Additional effects may include skin sensitization. Exposure to hot melted material can cause thermal burns.

**Indication of any immediate medical attention and special treatment needed**

**Notes To Physician:**

Immediately address any airway, breathing, or circulation concerns.

**SKIN & EYE CONTACT:** Prolonged flushing/cooling is necessary if the patient is treated on scene or soon after asphalt contact. Topical antibiotics should be liberally applied to the adhered asphalt-skin interface to aid in asphalt removal. A non-adherent material, such as Adaptic®, can then be applied and covered with sterile gauze. If topical antibiotics are not available, other materials that may be effective include mineral oil, baby oil, petroleum jelly (e.g. Vaseline®), mayonnaise, or butter. Do not use organic solvents such as kerosene, gasoline, or ethanol, as these can result in tissue damage or a fire hazard. Dressings should be changed every 4 hours until natural separation occurs. Initiate standard burn management at that time. Once cooled, adhered asphalt is not harmful to the skin, and in fact, provides a sterile cover over the affected area. The asphalt will detach itself within a few days as healing occurs. If it is necessary to remove the asphalt, only medically approved solvents or warm paraffin should be used to prevent further skin damage. Circumferential asphalt contact can have a tourniquet effect and impair distal circulation and nerve function. Create a longitudinal split or cut (analogous to an escharotomy) may be required completely across the residual asphalt to relieve pressure in the underlying tissue. For eye exposures with adherent asphalt, consult with an ophthalmologist. If hot material has caused burns to the eye, early ophthalmologic evaluation is recommended.

**INHALATION:** Inhalation exposure can produce toxic effects. Treat intoxications as hydrogen sulfide exposures. At high concentrations hydrogen sulfide may produce pulmonary edema, respiratory depression, and/or respiratory paralysis. The first priority in treatment should be the establishment of adequate ventilation and the administration of 100% oxygen. Monitor for respiratory distress. If cough or difficulty inbreathing develops, evaluate for upper respiratory tract inflammation, bronchitis, and pneumonitis.

**5. FIRE-FIGHTING MEASURES**

**Suitable extinguishing media**

For small fires, Class B fire extinguishing media such as CO2, dry chemical, foam (AFFF/ATC) or water fog can be used. For large fires, water spray, fog or foam (AFFF/ATC) can be used. Firefighting should be attempted only by those who are adequately trained and equipped with proper protective equipment.

**Unsuitable extinguishing media**

Do not use straight streams. Water contact can cause violent eruption of hot asphalt.

**Specific hazards arising from the chemical**

This product is not a combustible liquid per the OSHA Hazard Communication Standard, but will ignite and burn at temperatures exceeding the flash point.

**Hazardous combustion products**

Smoke, carbon monoxide, and other products of incomplete combustion.

**Explosion data**

**Sensitivity to Mechanical Impact** No.

**Sensitivity to Static Discharge** No.

**Special protective equipment and precautions for firefighters**

Firefighters should wear full protective clothing and positive-pressure self-contained breathing apparatus (SCBA) with a full face-piece, as appropriate. Avoid using straight water streams. Water spray and foam (AFFF/ATC) must be applied carefully to avoid frothing and from as far a distance as possible. Avoid excessive water spray application. Keep run-off water out of sewers and water sources.

**NFPA:**

Health 2

Flammability 1

Instability 0

Special Hazards -

**6. ACCIDENTAL RELEASE MEASURES**

**Personal Precautions:**

Keep public away. Isolate and evacuate area. Shut off source if safe to do so.

**Protective Equipment:**

Use personal protection measures as recommended in Section 8.

**Emergency Procedures:** Advise authorities and National Response Center (800-424-8802) if the product has entered a water source or sewer. Notify local health and pollution control agencies, if appropriate.

**Environmental precautions:** Avoid release to the environment. Avoid subsoil penetration.

**Methods and materials for containment:** Contain liquid with sand or soil.

**Methods and materials for cleaning up:** Use suitable absorbent materials such as vermiculite, sand, or clay to clean up residual liquids. Recover and return free product to proper containers.

## 7. HANDLING AND STORAGE

**Safe Handling Precautions:** Avoid contact with skin, eyes and clothing. Avoid breathing fumes, gas, or vapors. Use only with adequate ventilation. Wash thoroughly after handling. Use good personal hygiene practices and wear appropriate personal protective equipment. Comply with all applicable EPA, OSHA, NFPA and consistent state and local requirements.

Harmful concentrations of hydrogen sulfide (H<sub>2</sub>S) gas can accumulate in excavations and low-lying areas as well as the vapor space of storage and bulk transport compartments. Stay upwind and vent open hatches before unloading. Sulfur containing products may cause polysulfide deposits (iron sulfide) to form inside iron storage tanks. These pyrophoric deposits, upon exposure to air, can ignite spontaneously. Keep heating coils and flues in storage tanks, trucks and kettles covered with product (8"). Do not overheat.

**Storage Conditions:** Store in properly closed containers that are appropriately labeled and in a cool, well-ventilated area.

**Incompatible materials** Strong oxidizing agents.

## 8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Name	ACGIH TLV	OSHA PELs:	OSHA - Vacated PELs	NIOSH IDLH
Asphalt 8052-42-4	0.5 mg/m <sup>3</sup> TWA	-	-	-
Hydrogen sulfide 7783-06-4	1 ppm TWA 5 ppm STEL	Ceiling: 20 ppm	10 ppm TWA 14 mg/m <sup>3</sup> TWA 15 ppm STEL 21 mg/m <sup>3</sup> STEL	100 ppm

**Notes:**

**Engineering measures:** Local or general exhaust required in an enclosed area or when there is inadequate ventilation.

**Personal protective equipment**

**Eye protection:** Wear safety glasses and faceshield when handling hot material.

**Skin and body protection:** Wear insulated gloves when handling hot material. Contact the glove manufacturer for specific advice on glove selection and breakthrough times. Wear the appropriate thermal resistant clothing and footwear when handling and applying hot asphalt, ensure to cover exposed bare skin.

**Respiratory protection:** Where there is potential for airborne exposure to hydrogen sulfide (H<sub>2</sub>S) above exposure limits, a NIOSH approved, self-contained breathing apparatus (SCBA) or equivalent operated in a pressure demand or other positive pressure mode should be used. When H<sub>2</sub>S vapors exceed permissible limits, i.e., in confined spaces or bulk transport loading/unloading, a positive-pressure atmosphere supplying respirator is recommended. Self-contained breathing apparatus should be used for fire fighting.

Provided hydrogen sulfide (H<sub>2</sub>S) is not detected: if there is potential to exceed the exposure limits for asphalt fumes a NIOSH certified air purifying respirator equipped with organic vapor cartridges/canisters with R or P95 filters should be used. A respiratory protection program that meets or is equivalent to OSHA 29 CFR 1910.134 and ANSI Z88.2 should be followed when conditions warrant the use of a respirator.

Note: Air purifying respirators are not to be used in atmospheres that exceed the maximum use concentration (as directed by regulation or the manufacturer's instructions), in oxygen deficient atmospheres, (less than 19.5 percent oxygen) or under conditions that are immediately dangerous to life and health (IDLH).

**Hygiene measures:** Handle in accordance with good industrial hygiene and safety practice. Avoid contact with skin, eyes and clothing.

**9. PHYSICAL AND CHEMICAL PROPERTIES**

**Information on basic physical and chemical properties**

<b>Physical State</b>	Liquid
<b>Appearance</b>	Black-brown solid or semi-solid at room temperature. Liquid at temperatures >70°C.
<b>Color</b>	Dark brown to black
<b>Odor</b>	Tar
<b>Odor Threshold</b>	No data available

<b><u>Property</u></b>	<b><u>Values (Method)</u></b>
<b>Melting Point / Freezing Point</b>	> 15.5 °C / > 60 °F (ASTM D36)
<b>Initial Boiling Point / Boiling Range</b>	176-593 °C / 350-1100 °F (ASTM D2887)
<b>Flash Point</b>	> 232 °C / > 450 °F (ASTM D92)
<b>Evaporation Rate</b>	No data available
<b>Flammability (solid, gas)</b>	Not applicable.
<b>Flammability Limit in Air (%)</b>	
<b>Upper Flammability Limit:</b>	No data available
<b>Lower Flammability Limit:</b>	No data available
<b>Vapor Pressure</b>	No data available
<b>Vapor Density</b>	No data available
<b>Specific Gravity / Relative Density</b>	0.95-1.13 @ 15.6°C (ASTM D70)
<b>Water Solubility</b>	No data available
<b>Solubility in other solvents</b>	No data available
<b>Partition Coefficient</b>	No data available
<b>Decomposition temperature:</b>	No data available
<b>pH:</b>	Not applicable.
<b>Autoignition Temperature</b>	No data available
<b>Kinematic Viscosity</b>	No data available
<b>Dynamic Viscosity</b>	>50 P @ 60°C (ASTM D2171)

<b>Explosive Properties</b>	No data available
<b>Softening Point</b>	No data available
<b>VOC Content (%)</b>	No data available
<b>Density</b>	No data available
<b>Bulk Density</b>	Not applicable.

## 10. STABILITY AND REACTIVITY

<b><u>Reactivity</u></b>	The product is non-reactive under normal conditions.
<b><u>Chemical stability</u></b>	Stable under recommended storage conditions.
<b><u>Possibility of hazardous reactions</u></b>	None under normal processing.
<b><u>Hazardous polymerization</u></b>	Will not occur.
<b><u>Conditions to avoid</u></b>	Sources of heat or ignition.
<b><u>Incompatible materials</u></b>	Strong oxidizing agents.
<b><u>Hazardous decomposition products</u></b>	None known under normal conditions of use.

## 11. TOXICOLOGICAL INFORMATION

### **Potential short-term adverse effects from overexposures**

<b>Inhalation</b>	Fumes or vapors from the heated material may be irritating to the respiratory tract. May release highly toxic hydrogen sulfide gas that quickly fatigues the sense of smell.
<b>Eye contact</b>	Vapors may cause eye irritation and sensitivity to light. Contact with hot material may cause thermal burns.
<b>Skin contact</b>	May cause skin irritation. May cause an allergic skin reaction. Contact with hot material may cause thermal burns.
<b>Ingestion</b>	If swallowed at ambient temperature no significant adverse effects are expected. Ingestion of large amounts may cause gastrointestinal blockage. Swallowing hot material may cause burns to the mouth, throat, and stomach.

### **Acute Toxicological data**

### **Delayed and immediate effects as well as chronic effects from short and long-term exposure**

PETROLEUM ASPHALT: Eye and upper respiratory tract irritation has been reported in some asphalt workers (paving and roofing operations) but they are typically mild and transient. Some studies indicate that asphalt paving workers may experience lower respiratory tract symptoms (e.g., coughing, wheezing, and shortness of breath) and pulmonary function changes. Other studies of asphalt workers found no consistent relationship between exposure to asphalt fumes and pulmonary function. Increased levels of 1-hydroxypyrene (a marker for exposure to polycyclic aromatic hydrocarbons) have been observed in the urine of asphalt workers. Genotoxicity studies (e.g., DNA adducts in the urine) of asphalt workers have been largely inconclusive.

A slight increase in lung cancer mortality was reported in a study of European workers exposed to paving and mastic asphalt, but conclusions were equivocal. A follow-up case-control epidemiology study of asphalt paving workers sponsored by the International Association for Research in Cancer (IARC) concluded that there was no evidence that asphalt exposure was linked to lung cancer.

An increase in skin tumors was observed in lifetime studies of laboratory rodents exposed to extracts of asphalt (bitumen). The relevance of these studies to humans is not clear. No increase in skin tumors was observed in a lifetime bioassay where laboratory mice were treated with paving fume condensates. No increase in lung or other tumors were observed in a lifetime inhalation study in laboratory rats exposed to fumes from paving asphalt.

HYDROGEN SULFIDE: Hydrogen sulfide gas has an unpleasant odor that diminishes with increased exposure. Eye irritation may occur at levels above 4 ppm. Olfactory fatigue occurs rapidly at levels of 50 ppm or higher. Odor is not a reliable warning property. Respiratory effects include irritation with possible pulmonary edema at levels above 50 ppm. At 500 ppm immediate loss of consciousness and death can occur. NIOSH has determined that 100 ppm hydrogen sulfide is immediately dangerous to life and health (IDLH).

**Adverse effects related to the physical, chemical and toxicological characteristics**

**Signs & Symptoms** Frequent or prolonged contact with cold material may cause irritation. Additional effects may include skin sensitization. Rash. Contact with hot material may cause thermal burns.

**Sensitization** May cause sensitization by skin contact. Not expected to be a respiratory sensitizer.

**Mutagenic effects** None known.

**Carcinogenicity** Cancer designations are listed in the table below

Name	ACGI H	IARC (Class)	N T	OSHA
Asphalt 8052-42-4	Not classifiable (A4)	Emissions of straight-run asphalt from paving operations - Possible human carcinogen (2B)	Not Listed	Not Listed
Styrene/butadiene Copolymer 9003-55-8	Not Listed	Not classifiable (3)	Not Listed	Not Listed
Sulfur Compounds Mixture	Not Listed	Not Listed	Not Listed	Not Listed
Polyphosphoric Acids 8017-16-1	Not Listed	Not Listed	Not Listed	Not Listed
Polyamine Proprietary	Not Listed	Not Listed	Not Listed	Not Listed
Evotherm P15	Not Listed	Not Listed	Not Listed	Not Listed

Hydrogen sulfide 7783-06-4	Not Listed	Not Listed	Not Listed	Not Listed
Polycyclic Aromatic Hydrocarbons Mixture	Suspected human carcinogen (A2)	Carcinogenic to humans (1)	Reasonably anticipated to be a human carcinogen	Not Listed

**Reproductive toxicity** None known.

**Specific Target Organ Toxicity (STOT) - single exposure** Not classified.

**Specific Target Organ Toxicity (STOT) - repeated exposure** Not classified

**Aspiration hazard** Potential for aspiration if swallowed.

## 12. ECOLOGICAL INFORMATION

**Ecotoxicity** This product should be considered harmful to aquatic organisms.

Name	Algae/aquatic plants	Fish	Toxicity to Microorganisms	Crustacea
Asphalt 8052-42-4	-	-	-	-
Evotherm P15 (Alkyl phosphates)	72-hr EC50= 168 mg/l Fresh water (Algae) 72-hr EC50= 161 mg/l Fresh Water (Aquatic Plants) 72-hr NOEC 5 mg/l Fresh Water (Algae) 72-hr NOEC 5 mg/l Fresh Water (Aquatic Plants)	-	-	
Hydrogen sulfide 7783-06-4	-	96-hr LC50 = 0.016 mg/l Fathead minnow	-	-
Polycyclic Aromatic	-	-	-	-

**Persistence and degradability** Not expected to be readily biodegradable.

**Bioaccumulation** Not expected to bioaccumulate in aquatic organisms.

**Mobility in soil** Not likely to move rapidly with surface or groundwater flows because of its low water solubility.

**Other adverse effects** No information available

## 13. DISPOSAL CONSIDERATIONS

**Description of Waste Residues**

No information available

**Safe Handling of Wastes**

Handle in accordance with applicable local, state, and federal regulations. Use personal protection measures as require

**Disposal of Wastes / Methods of Disposal**

The user is responsible for determining if any discarded material is a hazardous waste (40 CFR 262.11). Dispose of in accordance with federal, state and local regulations.

**Methods of Contaminated Packaging Disposal**

Empty containers should be completely drained and then discarded or recycled, if possible. Dispose of in accordance with federal, state and local regulations.

**14. TRANSPORT INFORMATION**

**DOT (49 CFR 172.101):**

**UN Proper shipping name:** Elevated Temperature Liquid, N.O.S.  
**UN/Identification No:** UN 3257  
**Transport Hazard Class(es):** 9  
**Packing group:** III  
**DOT reportable quantity (lbs):** Not applicable

Comments: (Hot Petroleum Asphalt) This material must not be transported when heated at or above its flash point.

**TDG (Canada):**

**UN Proper shipping name:** Elevated Temperature Liquid, N.O.S.  
**UN/Identification No:** UN 3257  
**Transport Hazard Class(es):** 9  
**Packing group:** III  
**Regulated substances:** Not applicable

**15. REGULATORY INFORMATION**

**US Federal Regulatory Information:**

US TSCA Chemical Inventory Section 8(b): This product and/or its components are listed on the TSCA Chemical Inventory.

**EPA Superfund Amendment & Reauthorization Act (SARA):**

**SARA Section 302:** This product may contain component(s) that have been listed on EPA's Extremely Hazardous Substance (EHS) List:

Name	CERCLA/SARA - Section 302 Extremely Hazardous Substances and TPQs
Asphalt	NA
Styrene/butadiene Copolymer	NA
Sulfur Compounds	NA
Polyphosphoric Acids	NA
Polyamine	NA
Evotherm P15	NA
Hydrogen sulfide	500 lb TPQ
Polycyclic Aromatic Hydrocarbons	NA

**SARA Section 304:** This product may contain component(s) identified either as an EHS or a CERCLA Hazardous substance which in case of a spill or release may be subject to SARA reporting requirements:

Name	CERCLA/SARA - Hazardous Substances and their Reportable Quantities
Asphalt	NA
Styrene/butadiene Copolymer	NA
Sulfur Compounds	NA
Polyphosphoric Acids	NA

Evotherm P15	NA
Hydrogen sulfide	100 lb final RQ 45.4 kg final RQ
Polycyclic Aromatic Hydrocarbons	1 lb final RQ 0.454 kg final RQ

**SARA:** The following EPA hazard categories apply to this product:

- Acute Health Hazard
- Chronic Health Hazard

**SARA Section 313:** This product may contain component(s), which if in exceedance of the de minimus threshold, may be subject to the reporting requirements of SARA Title III Section 313 Toxic Release Reporting (Form R).

<b>Name</b>	<b>CERCLA/SARA 313 Emission reporting:</b>
Asphalt	None
Styrene/butadiene Copolymer	None
Sulfur Compounds	None
Polyphosphoric Acids	None
Polyamine	None
Evotherm P15	None
Hydrogen sulfide	1.0 % de minimis concentration
Polycyclic Aromatic Hydrocarbons	0.1 % Supplier notification limit

## 16. OTHER INFORMATION

**Prepared By** Kokosing Materials Inc. (General information provided by Toxicology and Product Safety)

**Revision Date:** 3-21-2016

**Revision Note:**

### Disclaimer

The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information is intended as guidance for safe handling, use, processing, storage, transportation, accidental release, clean-up and disposal and is not considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

Buyer's exclusive remedy shall be for damages and no claim of any kind, whether as to product delivered or for non-delivery of product, and whether based on contract, breach of warranty, negligence, or otherwise, shall be greater in amount than the purchase price of the quantity of product with respect to which damages are claimed. In no event shall Seller be liable for incidental or consequential damages, attorney fees, or punitive damages, whether Buyer's claim is based on contract, breach of warranty, negligence, or otherwise.