

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA OFFICE OF
ADMINISTRATIVE LAW PROCEEDINGS,
SUBJECT TO THE ULTIMATE
AUTHORITY OF THE IOSHA BOARD OF
SAFETY REVIEW

IN THE MATTER OF:) OALP CASE NO. DOL-0221-000456
) BSR DOCKET NO. 21-002
COMMISSIONER OF LABOR,)
)
Complainant,)
)
v.)
)
TOM'S AUTO SALVAGE)
AND ITS SUCCESSORS,)
)
Respondent.)

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter "Complainant") and Tom's Auto Salvage (hereinafter "Respondent"), through their duly authorized representatives, desiring to enter into this Agreed Entry as final settlement of this matter, do hereby stipulate and agree as follows:

PART I.

1. From August 5, 2020, through October 16, 2020, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent's worksite located at 29332 CR 10, Elkhart, Indiana 46514.

2. On January 15, 2021, Complainant issued a Safety Order and Notification of Penalty (hereinafter "Safety Order") resulting from Indiana Department of Labor Inspection No. 318124476 and alleging that Respondent had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*) or the standards or rules thereunder. The Safety Order is attached hereto as Exhibit A and is incorporated herein.

3. On or about February 8, 2021, Respondent duly and timely petitioned for review of the Safety Order.

PART II.

4. The Safety Order consists of Safety Order 1, Item Nos. 1, 2, 3, 4, 5, 6, 7a, 7b, and 7c.

5. Safety Order 1, Item 1 alleges a "Serious" violation of 29 CFR 1910.177(c)(1) and assesses a penalty of Seven Thousand Dollars (\$7,000).

6. Safety Order 1, Item 2 alleges a "Serious" violation of 29 CFR 1910.177(d)(1) and assesses a penalty of Seven Thousand Dollars (\$7,000).

7. Safety Order 1, Item 3 alleges a "Serious" violation of 29 CFR 1910.177(d)(4)(i) and assesses a penalty of Seven Thousand Dollars (\$7,000).

8. Safety Order 1, Item 4 alleges a "Serious" violation of 29 CFR 1910.177(d)(4)(ii) and assesses a penalty of Seven Thousand Dollars (\$7,000).

9. Safety Order 1, Item 5 alleges a "Serious" violation of 29 CFR 1910.177(d)(5) and assesses a penalty of Seven Thousand Dollars (\$7,000).

10. Safety Order 1, Item 6 alleges a "Serious" violation of 29 CFR 1910.177(f)(10) and assesses a penalty of Seven Thousand Dollars (\$7,000).

11. Safety Order 1, Item 7a alleges a "Serious" violation of 29 CFR 1910.1200(e)(1) and assesses a shared penalty, grouped with Items 7b and 7c, of Four Hundred Fifty Dollars (\$450).

12. Safety Order 1, Item 7b alleges a "Serious" violation of 29 CFR 1910.1200(g)(8) and assesses no additional penalty to what is assessed in Item 7a.

13. Safety Order 1, Item 7c alleges a "Serious" violation of 29 CFR 1910.1200(h)(1) and assesses no additional penalty to what is assessed in Item 7a.

14. The total assessed penalty for Safety Order 1 is Forty-Two Thousand Four Hundred

Fifty Dollars (\$42,450) for the aforementioned alleged violations.

PART III.

15. The Complainant and Respondent acknowledge that the Respondent has voluntarily executed this Agreed Entry to avoid incurring the expense of further litigation. The Complainant and Respondent further acknowledge that (a) by voluntarily executing this Agreed Entry, the Respondent does not admit to any violation of any law or regulation, including without limitation the laws and regulations set forth above, and that (b) this Agreed Entry, including but not limited to paragraphs 16-26 below, does not and shall not be construed to contain any such admission by the Respondent. Subject to these acknowledgments, the Complainant and Respondent agree to the amendment of the Safety Order as follows.

16. Safety Order 1, Item 1 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

17. Safety Order 1, Item 2 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

18. Safety Order 1, Item 3 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

19. Safety Order 1, Item 4 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

20. Safety Order 1, Item 5 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

21. Safety Order 1, Item 6 is upheld, but the penalty is reduced by 35% to Four Thousand Five Hundred Fifty Dollars (\$4,550).

22. Safety Order 1, Item 7a is upheld, but the shared penalty, grouped with Items 7b and

7c, is reduced by 35% to Two Hundred Ninety-Two and 50/100 Dollars (\$292.50).

23. Safety Order 1, Item 7b is upheld, but assesses no additional penalty to what is assessed in amended Item 7a herein.

24. Safety Order 1, Item 7c is upheld, but assesses no additional penalty to what is assessed in amended Item 7a herein.

25. The AGREED total penalty for all alleged violations and all alleged subparts thereunder, subject to this Agreed Entry, is Twenty-Seven Thousand Five Hundred Ninety-Two and 50/100 Dollars (\$27,592.50).

26. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties for the purposes of the Indiana Occupational Safety and Health Act ("Act").

27. Complainant acknowledges that Respondent has sold the assets of Tom's Auto Salvage and no longer operates a business at the location that was inspected. Since Respondent no longer owns or manages any of the property where the alleged hazards were identified, Respondent shall not be responsible for abatement of any of the alleged hazards cited. Further, the Complainant and the Respondent acknowledge that this matter shall be forever closed and conclusively resolved upon receipt in full of the agreed total penalty by Complainant and the issuance of a final order by the Board of Safety Review.

28. Respondent hereby withdraws its petition for review previously filed in this matter, subject to the parties' acknowledgment that by withdrawing its petition, the Respondent does not admit to any violation of any law or regulation, including without limitation the laws and regulations set forth above.

PART IV.

29. Nothing contained in this Agreed Entry shall be construed to affect Complainant's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

30. The Complainant and Respondent acknowledge that the Respondent's decision to voluntarily execute this Agreed Entry was made to compromise and settle this matter economically and amicably, and that by voluntarily executing this Agreed Entry, the Respondent does not admit to any violation of any law or regulation cited within the Safety Order, which violations the Respondent continues to deny.

31. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

AGREED this 17th day of August 2021.

TOM'S AUTO SALVAGE

By: Christine M. Goldsborough
Printed: Christine M. Goldsborough
Title: President

COMMISSIONER OF LABOR

By: Michelle L. Ellison
Michelle L. Ellison,
Deputy Commissioner of IOSHA

Approved as to Form:

By: Jeremy McDonald
Jeremy J. McDonald
Counsel for Respondent

By: J. Anthony Hardman
J. Anthony Hardman,
Counsel for Complainant

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



Safety Order and Notification of Penalty

To:
Toms Auto Salvage
and its successors
29332 CR 10
Elkhart, IN 46517

Inspection Number: 318124476
CSHO ID: P7064
Optional Report No.: 20-31
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021

Inspection Site:
29332 CR 10
Elkhart, IN 46517

The violation(s) described in this Safety Order 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.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s)

and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent board appointed by the governor with authority to conduct legal proceedings leading up to and including administrative hearings, or assign an Administrative Law Judge (ALJ) to conduct the same, and to issue decisions concerning disputed safety orders and notifications of penalties. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty and proof of abatement must be sent to the email address: AbatementGI@dol.in.gov unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall be sent to the email address: AbatementGI@dol.in.gov shall include the following

information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required sending the Petition to AbatementGI@dol.in.gov. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction and sent to the email address AbatementGI@dol.in.gov. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted via email at AbatementGI@dol.in.gov, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty..

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

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 Indiana Department of Labor/IOSHA at the address shown above.

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 Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.

Indiana Department of Labor

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 1/15/2021. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 001 Type of Violation: **Serious**

29 CFR 1910.177(c)(1): The employer did not provide a program to train all employees who service rim wheels in the hazards involved and the safety procedures to follow while servicing rim wheels:

Facility - Employees were exposed to struck-by hazards when putting air in the tires of the Case W20C front end loader.

Date By Which Violation Must Be Abated:	2/18/2021
Proposed Penalty:	\$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 002 Type of Violation: **Serious**

29 CFR 1910.177(d)(1): The employer did not furnish a restraining device for employees to use while inflating tires on multi-piece wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The tire and multi-piece rim were not able to be restrained.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 003

Type of Violation: **Serious**

29 CFR 1910.177(d)(4)(i): The employer did not furnish an air line assembly which included a clip-on chuck for inflating tires on rim wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The chuck being used was not able to be clipped onto the valve stem.

Date By Which Violation Must Be Abated: 2/18/2021
Proposed Penalty: \$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
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CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 004 Type of Violation: **Serious**

29 CFR 1910.177(d)(4)(ii): The employer did not furnish an air line assembly which included an in-line valve with a pressure gauge or a presettable regulator for inflating tires on rim wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The air line did not have an in-line valve with pressure gauge or presettable regulator.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 005 Type of Violation: **Serious**

29 CFR 1910.177(d)(5): Current charts (rim manuals) containing instructions for the type of wheels being serviced were not available in the service area:

Entire facility - Employees were exposed to struck-by hazards when charts or rim manuals were not available when putting air in a tire of the Case W20C front end loader.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 006 Type of Violation: **Serious**

29 CFR 1910.177(f)(10): The employer did not ensure that employees stayed out of the trajectory whenever multi-piece rim wheels were handled:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Safety Order 01 Item 007a Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, anti-freeze, and gasoline. A written hazard communication program was not developed or implemented.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$450.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
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Safety Order and Notification of Penalty

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Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 007b Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): The employer did not maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and did not ensure that they were readily accessible during each work shift to employees when they were in their work area(s)

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, antifreeze, and gasoline. The safety data sheets were not maintained.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
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Safety Order and Notification of Penalty


Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 007c **Type of Violation: Serious**

29 CFR 1910.1200(h)(1): Employees were not provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard that the employees had not been previously trained about was introduced into their work area:

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, antifreeze, and gasoline and were not trained on the hazards of the chemicals or information on the safety data sheets.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$0.00**


Julie C. Alexander, JD
Director of General Industry

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



INVOICE/DEBT COLLECTION NOTICE

Company Name: Toms Auto Salvage
and its successors
Inspection Site: 29332 CR 10, Elkhart, IN 46517
Issuance Date: 1/15/2021

Summary of Penalties for Inspection Number: 318124476


Safety Order 1, Serious	= \$42,450.00
TOTAL PENALTIES	= \$42,450.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance. You may also make a payment online at <https://payingov.com/dol/>. Your account number is your inspection number.

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

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).



Julie C. Alexander, J.D.
Director of General Industry

1/15/2021

Date

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



Safety Order and Notification of Penalty

To:
Toms Auto Salvage
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29332 CR 10
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Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s)

and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent board appointed by the governor with authority to conduct legal proceedings leading up to and including administrative hearings, or assign an Administrative Law Judge (ALJ) to conduct the same, and to issue decisions concerning disputed safety orders and notifications of penalties. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

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Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty and proof of abatement must be sent to the email address: AbatementGI@dol.in.gov unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall be sent to the email address: AbatementGI@dol.in.gov shall include the following

information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required sending the Petition to AbatementGI@dol.in.gov. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction and sent to the email address AbatementGI@dol.in.gov. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted via email at AbatementGI@dol.in.gov, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty..

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

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 Indiana Department of Labor/IOSHA at the address shown above.

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 Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.

Indiana Department of Labor

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 1/15/2021. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 001

Type of Violation: **Serious**

29 CFR 1910.177(c)(1): The employer did not provide a program to train all employees who service rim wheels in the hazards involved and the safety procedures to follow while servicing rim wheels:

Facility - Employees were exposed to struck-by hazards when putting air in the tires of the Case W20C front end loader.

Date By Which Violation Must Be Abated: 2/18/2021
Proposed Penalty: \$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 002

Type of Violation: **Serious**

29 CFR 1910.177(d)(1): The employer did not furnish a restraining device for employees to use while inflating tires on multi-piece wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The tire and multi-piece rim were not able to be restrained.

Date By Which Violation Must Be Abated: 2/18/2021
Proposed Penalty: \$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 003 Type of Violation: **Serious**

29 CFR 1910.177(d)(4)(i): The employer did not furnish an air line assembly which included a clip-on chuck for inflating tires on rim wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The chuck being used was not able to be clipped onto the valve stem.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 004 Type of Violation: **Serious**

29 CFR 1910.177(d)(4)(ii): The employer did not furnish an air line assembly which included an in-line valve with a pressure gauge or a presettable regulator for inflating tires on rim wheels:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader. The air line did not have an in-line valve with pressure gauge or presettable regulator.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 005

Type of Violation: **Serious**

29 CFR 1910.177(d)(5): Current charts (rim manuals) containing instructions for the type of wheels being serviced were not available in the service area:

Entire facility - Employees were exposed to struck-by hazards when charts or rim manuals were not available when putting air in a tire of the Case W20C front end loader.

Date By Which Violation Must Be Abated: 2/18/2021
Proposed Penalty: \$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 006 Type of Violation: **Serious**

29 CFR 1910.177(f)(10): The employer did not ensure that employees stayed out of the trajectory whenever multi-piece rim wheels were handled:

West side yard area - Employees were exposed to struck-by hazards when putting air in a tire of the Case W20C front end loader.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Safety Order 01 Item 007a Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, anti-freeze, and gasoline. A written hazard communication program was not developed or implemented.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$450.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty

Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 007b Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): The employer did not maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and did not ensure that they were readily accessible during each work shift to employees when they were in their work area(s)

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, antifreeze, and gasoline. The safety data sheets were not maintained.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318124476
Inspection Date(s): 8/5/2020 - 10/16/2020
Issuance Date: 1/15/2021
CSHO ID: P7064
Optional Report No.: 20-31

Safety Order and Notification of Penalty


Company Name: Toms Auto Salvage
Inspection Site: 29332 CR 10, Elkhart, IN 46517

Safety Order 01 Item 007c Type of Violation: **Serious**

29 CFR 1910.1200(h)(1): Employees were not provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard that the employees had not been previously trained about was introduced into their work area:

Facility wide - Employees were using chemicals such as, but not limited to, motor oil, antifreeze, and gasoline and were not trained on the hazards of the chemicals or information on the safety data sheets.

Date By Which Violation Must Be Abated: **2/18/2021**
Proposed Penalty: **\$0.00**


Julie C. Alexander, JD
Director of General Industry