

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-1979 FAX: (317)233-3790



Safety Order and Notification of Penalty

To:
Resco Products
5501 Kennedy Avenue
Hammond, IN 46323

Inspection Number: 318131174
CSHO ID: K9073
Optional Report No.: 10-21
Inspection Date(s): 5/19/2021 - 7/29/2021
Issuance Date: 10/21/2021

Inspection Site:
5501 Kennedy Avenue
Hammond, IN 46323

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.

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 10/21/2021. 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

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Safety Order and Notification of Penalty

Company Name: Resco Products
Inspection Site: 5501 Kennedy Avenue, Hammond, IN 46323

Safety Order 01 Item 001

Type of Violation: **Serious**

IC 22-8-1.1 Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to potential fire and/or deflagration (explosion) hazards:

Mixing, minor adds - Employees were exposed to potential fire and/or deflagration (explosion) hazards while they worked in the area where combustible dust was present.

Among other methods, feasible and acceptable methods to correct this hazard include following the requirements of NFPA 652 Standard on the Fundamentals of Combustible Dust 2019 including but not limited to:

- Ensure that the facility, processes and equipment shall be designed, constructed, equipped, and maintained and management systems implemented to reasonably prevent serious injury from flash fires and to prevent injury from explosions in accordance with chapter 4.1.
- Complete a Dust Hazards Analysis (DHA) as required by chapter 7.1.1.2 and review and update the DHA at least every 5 years (7.1.4). This analysis will assist in determining accumulation limits for housekeeping and determine need for installation of an extinguishing system.
- Establish operating procedures and practices as required in chapter 8.3 to include written procedures for operating its facility and equipment to prevent or mitigate fires, deflagrations, and explosion from combustible particulates. Establish safety work practices to address hazards associated with maintenance and servicing operations and perform periodic walkthrough reviews to ensure these procedures and practices are being followed.

- Establish housekeeping frequency and accumulations goals as stated in chapter 8.4.6.1 to ensure that accumulated fugitive dust levels on surfaces do not exceed accumulation limits.
- Provide job specific training to ensure that employees are knowledgeable about the fire and explosion hazards of combustible dust. Chapter 8.8.
- Ensure that the pneumatic conveying system is maintained to ensure that the air velocity shall meet or exceed the minimum required to keep the interior surfaces of all piping/ducting free of accumulations under normal operation per 9.3.3.

Date By Which Violation Must Be Abated:
Proposed Penalty:

11/24/2021
\$5,000.00

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

29 CFR 1910.28(b)(1)(i): Except as provided elsewhere in this section, the employer must ensure that each employee on a walking-working surface with an unprotected side or edge that is 4 feet (1.2 m) or more above a lower level is protected from falling by one or more of the following: guardrail systems; safety net systems; or personal fall protection systems, such as personal fall arrest, travel restraint, or positioning systems:

Mixing, minor adds - Employees were exposed to a fall hazard when they accessed the materials on the mezzanine to check for levels. The guard rail was not complete and left areas where the open sides of the platform could be accessed.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$1,700.00

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

29 CFR 1910.178(c)(2)(vi)(a): Trucks other than approved power operated industrial trucks designated as EX were used in atmospheres in which combustible dust was or could have been in suspension continuously, intermittently, or periodically under normal operating conditions, in quantities sufficient to produce explosive or ignitable mixtures, or where mechanical failure or abnormal operation of machinery or equipment might have caused such mixtures to be produced.

Mixing, minor adds - Employees were exposed to fire and burns when they operated a LPG powered forklift in the area where combustible dust was present.

Date By Which Violation Must Be Abated: **11/24/2021**
Proposed Penalty: **\$2,125.00**

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

29 CFR 1910.212(a)(1): One or more methods of machine guarding was not provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks:

Mixing, minor adds - Employees were exposed to rotating parts of the unguarded auger while they worked in the area to address the clogging of material in the auger and setting up super sacs of material.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Corrected During Inspection
\$5,000.00

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

29 CFR 1910.307(c)(2)(i): Equipment in hazardous (classified) location(s) was not approved for the ignitable or combustible properties of the specific gas, vapor, dust, or fiber that was or could be present:

Mixing, minor adds - Employees were exposed to fire and/or deflagration (explosion) hazards while they worked in the area where combustible dust was present and equipment wiring, a space heater, and a heat lamp were used that were not designed for the Class II, Division 1 location (combustible dust).

Date By Which Violation Must Be Abated: **11/24/2021**
Proposed Penalty: **\$5,000.00**


Jameson Berry
Director of General Industry