

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: )  
 )  
COMMISSIONER OF LABOR, )  
 )  
 )  
Complainant, )  
 )  
v. )  
 )  
FOUR STAR FABRICATORS INC. )  
AND ITS SUCCESSORS, )  
 )  
Respondent. )

OALP CASE NO. DOL-0221-000573  
BSR DOCKET NO. 21-007

**AGREED ENTRY**

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter “Complainant”) and Four Star Fabricators Inc. (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 21, 2020, through November 12, 2020, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent’s worksite located at 810 S. Industrial Park Dr., Petersburg, Indiana 47567.

2. On February 9, 2021, Complainant issued a Safety Order and Notification of Penalty (hereinafter “Safety Order”) resulting from Indiana Department of Labor Inspection No. 318124971 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 25, 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, and 3; and Safety Order 2, Item Nos. 1, 2, 3, and 4.

5. Safety Order 1, Item 1 alleges a “Serious” violation of 29 CFR 1910.107(g)(2) and assesses a penalty of One Thousand Four Hundred Dollars (\$1,400).

6. Safety Order 1, Item 2 alleges a “Serious” violation of 29 CFR 1910.252(b)(1)(i) and assesses a penalty of Three Thousand Five Hundred Dollars (\$3,500).

7. Safety Order 1, Item 3 alleges a “Serious” violation of 29 CFR 1910.254(d)(8) and assesses a penalty of Two Thousand Four Hundred Fifty Dollars (\$2,450).

8. The total assessed penalty for Safety Order 1 is Seven Thousand Three Hundred Fifty Dollars (\$7,350).

9. Safety Order 2, Item 1 alleges a “Non-Serious” violation of 29 CFR 1910.147(c)(6)(ii) and assesses a penalty of Seven Hundred Dollars (\$700).

10. Safety Order 2, Item 2 alleges a “Non-Serious” violation of 29 CFR 1910.147(c)(7)(iv) and assesses a penalty of Seven Hundred Dollars (\$700).

11. Safety Order 2, Item 3 alleges a “Non-Serious” violation of 29 CFR 1910.179(j)(2)(iv) and assesses a penalty of Seven Hundred Dollars (\$700).

12. Safety Order 2, Item 4 alleges a “Non-Serious” violation of 29 CFR 1910.179(j)(3) and assesses a penalty of Seven Hundred Dollars (\$700).

13. The total assessed penalty for Safety Order No. 2 is Two Thousand Eight Hundred Dollars (\$2,800).

14. The total assessed penalty for Safety Order No. 1 and No. 2 combined is Ten Thousand One Hundred Fifty Dollars (\$10,150).

PART III.

15. The Safety Order is hereby upheld and accepted by Respondent as originally cited and stated herein in Part II above.

16. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Ten Thousand One Hundred Fifty Dollars (\$10,150).

17. 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").

18. Respondent confirms Complainant's right to re-inspect its workplaces, in accordance with the Act, and to verify abatement of the alleged violations.

19. If not already identified in the Safety Order and Notification of Penalty as completed during the inspection, all abatement, including any enhanced abatement identified and agreed upon herein, must still be completed in a timely manner and certified to IOSHA by completing a Letter of Abatement, State Form 44425, and sending the form, along with any supporting documentation and photographs, to IOSHA by any of the means listed in the box in the upper right portion of the form.

20. Respondent hereby withdraws its petition for review previously filed in this matter.

PART IV.

21. 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.

22. Except for this agreement, and matters arising out of this agreement and any other subsequent IOSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by the Respondent shall be deemed an admission by Respondent of the allegations contained within the Safety Order(s) and Notification(s) of Penalty. The agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

23. 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.

24. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3)(C).

AGREED this 19<sup>th</sup> day of April, 2021.

**FOUR STAR FABRICATORS INC.**

By: Steve V. Miller

Printed: Steve V. Miller

Title: President

**COMMISSIONER OF LABOR**

By: Michelle R. Ellison for

**Jameson Berry,  
Director of General Industry,  
IOSHA**

Approved as to Form:

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:**  
Four Star Fabricators Incorporated  
and its successors  
PO Box 67  
Petersburg, IN 47567

**Inspection Number:** 318124971  
**CSHO ID:** T6073  
**Optional Report No.:** 2074-21  
**Inspection Date(s):** 8/21/2020 - 11/12/2020  
**Issuance Date:** 2/9/2021

**Inspection Site:**  
810 South Industrial Park Drive  
Petersburg, IN 47567

*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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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 2/9/2021. 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:** 318124971  
**Inspection Date(s):** 8/21/2020 - 11/12/2020  
**Issuance Date:** 2/9/2021  
**CSHO ID:** T6073  
**Optional Report No.:** 2074-21

**Safety Order and Notification of Penalty**

**Company Name:** Four Star Fabricators Incorporated  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567

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

29 CFR 1910.107(g)(2): All spraying areas were not kept as free from the accumulation of deposits of combustible residues as practical, with cleaning conducted daily if necessary:

Spray Area - Deposits of residue such as, but not limited to; Temperkote 850 15 Charcoal (Category 3 Flammable) had accumulated on the floor and side wall which created a potential burn and smoke inhalation hazard due to fire.

**Date By Which Violation Must Be Abated:**                      **3/12/2021**  
**Proposed Penalty:**    **\$1,400.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
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**Safety Order 01 Item 002**                      **Type of Violation: Serious**

29 CFR 1910.252(b)(1)(i): A welder or helper working on platforms, scaffolds, or runways was not protected against falling:

Fabrication Bay - No means of fall protection was provided for welders who worked from an unprotected platform greater than 112 inches from the ground below which created potential struck-against hazards.

**Date By Which Violation Must Be Abated:**  
**Proposed Penalty:**

**Corrected During Inspection**  
**\$3,500.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
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**Safety Order and Notification of Penalty**

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

29 CFR 1910.254(d)(8): Welding cables with splices within 10 feet (3 m) of the holder were used:

Facility - Welding cables with splices 32 inches from the holder were being used by welders which created a potential electric shock hazard.

**Date By Which Violation Must Be Abated:**  
**Proposed Penalty:**

**Corrected During Inspection**  
**\$2,450.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
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**CSHO ID:** T6073  
**Optional Report No.:** 2074-21

**Safety Order and Notification of Penalty**

**Company Name:** Four Star Fabricators Incorporated  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567

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**Safety Order 02 Item 001**                      Type of Violation: **NonSerious**

29 CFR 1910.147(c)(6)(ii): The employer did not certify that the periodic inspections have been performed:

Facility - No annual audits were conducted to identify deficiencies or changes in Lockout/Tagout (LOTO) procedures for equipment such as, but not limited to: overhead cranes, which exposed authorized employees to the possibility of electric shock and struck-by hazards.

**Date By Which Violation Must Be Abated:**                      **3/12/2021**  
**Proposed Penalty:**    **\$700.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
**Inspection Date(s):** 8/21/2020 - 11/12/2020  
**Issuance Date:** 2/9/2021  
**CSHO ID:** T6073  
**Optional Report No.:** 2074-21

**Safety Order and Notification of Penalty**

**Company Name:** Four Star Fabricators Incorporated  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567

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**Safety Order 02 Item 002**                      **Type of Violation: NonSerious**

29 CFR 1910.147(c)(7)(iv): The employer did not certify that employee training had been accomplished and kept up to date:

Facility - Documentation for Lockout/Tagout training was not maintained.

**Date By Which Violation Must Be Abated:**  
**Proposed Penalty:**

**Corrected During Inspection**  
**\$700.00**

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
**Inspection Date(s):** 8/21/2020 - 11/12/2020  
**Issuance Date:** 2/9/2021  
**CSHO ID:** T6073  
**Optional Report No.:** 2074-21

**Safety Order and Notification of Penalty**

**Company Name:** Four Star Fabricators Incorporated  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567

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**Safety Order 02 Item 003**

Type of Violation: **NonSerious**

29 CFR 1910.179(j)(2)(iv): Inspections shall be performed on hoist chains, including end connections, for excessive wear, twist, distorted links interfering with proper function, or stretch beyond manufacturer's recommendations. Visual inspection daily; monthly inspection with a certification record which includes the date of inspection, the signature of the person who performed the inspection and an identifier of the chain which was inspected:

Facility – No frequent inspections were performed nor certified for the 15 overhead, floor operated cranes which exposed employees to the possibility of struck-by hazards.

**Date By Which Violation Must Be Abated:** 3/12/2021  
**Proposed Penalty:** \$700.00

**Indiana Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 318124971  
**Inspection Date(s):** 8/21/2020 - 11/12/2020  
**Issuance Date:** 2/9/2021  
**CSHO ID:** T6073  
**Optional Report No.:** 2074-21

**Safety Order and Notification of Penalty**

**Company Name:** Four Star Fabricators Incorporated  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567

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**Safety Order 02 Item 004**                      Type of Violation: **NonSerious**

29 CFR 1910.179(j)(3): Complete periodic inspections of the crane shall be performed at intervals as generally defined in paragraph (j)(1)(ii)(b) of this section, depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of paragraph (j)(2) of this section and in addition, the following items. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard: (i) Deformed, cracked, or corroded members, (ii) Loose bolts or rivets, (iii) Cracked or worn sheaves and drums, (iv) Worn, cracked or distorted parts such as pins, bearings, shafts, gears, rollers, locking and clamping devices, (v) Excessive wear on brake system parts, linings, pawls, and ratchets, (vi) Load, wind, and other indicators over their full range, for any significant inaccuracies, (vii) Gasoline, diesel, electric, or other powerplants for improper performance or noncompliance with applicable safety requirements, (viii) Excessive wear of chain drive sprockets and excessive chain stretch, and (x) Electrical apparatus, for signs of pitting or any deterioration of controller contactors, limit switches and pushbutton stations:

Facility - No periodic inspections were performed for the 15 overhead, floor operated cranes which exposed employees to the possibility of struck-by hazards.

**Date By Which Violation Must Be Abated:**                      **3/12/2021**  
**Proposed Penalty:**    **\$700.00**



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

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**Company Name:** Four Star Fabricators Incorporated  
and its successors  
**Inspection Site:** 810 South Industrial Park Drive, Petersburg, IN 47567  
**Issuance Date:** 2/9/2021

### Summary of Penalties for Inspection Number: 318124971

Safety Order 1, Serious	= \$7,350.00
Safety Order 2, NonSerious	= \$2,800.00
<b>TOTAL PENALTIES</b>	<b>= \$10,150.00</b>

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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).

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

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Date