

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. )  
 )  
ROWE TRUCK )  
AND ITS SUCCESSORS, )  
 )  
Respondent. )

OALP CASE NO. DOL-1220-001506  
BSR DOCKET NO. 20-031

**AGREED ENTRY**

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter “Complainant”) and Rowe Truck (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 May 21, 2020, through November 10, 2020, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent’s worksite located at 2500 Veterans Memorial Pkwy. E., Lafayette, Indiana 47905.

2. On November 19, 2020, Complainant issued a Safety Order and Notification of Penalty (hereinafter “Safety Order”) resulting from Indiana Department of Labor Inspection No. 318122603 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 December 11, 2020, 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, and 6; Safety Order 2, Item No. 1; and Safety Order 3, Item No. 1.

5. Safety Order 1, Item 1 alleges a “Serious” violation of Indiana Code § 22-8-1.1-2 for hazards related to damaged and bent storage racks and assesses a penalty of Three Thousand Five Hundred Dollars (\$3,500).

6. Safety Order 1, Item 2 alleges a “Serious” violation of 29 CFR 1910.28(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 1910.30(a)(1) and assesses a penalty of Three Thousand Five Hundred Dollars (\$3,500).

8. Safety Order 1, Item 4 alleges a “Serious” violation of 29 CFR 1910.132(d)(1) and assesses a penalty of Three Thousand Five Hundred Dollars (\$3,500).

9. Safety Order 1, Item 5 alleges a “Serious” violation of 29 CFR 1910.1200(g)(8) and assesses a penalty of One Thousand Seven Hundred Fifty Dollars (\$1,750).

10. Safety Order 1, Item 6 alleges a “Serious” violation of 29 CFR 1910.1200(h)(1) and assesses a penalty of One Thousand Seven Hundred Fifty Dollars (\$1,750).

11. The total assessed penalty for Safety Order 1 is Seventeen Thousand Five Hundred Dollars (\$17,500).

12. Safety Order 2, Item 1 alleges a “Knowing” violation of 29 CFR 1910.178(l)(2)(ii) and assesses a penalty of One Hundred Thirty-Two Thousand Five Hundred Ninety-Eight Dollars (\$132,598).

13. Safety Order 3, Item 1 alleges a “Non-Serious” violation of 29 CFR 1910.39(a)(1) and assesses a penalty of One Thousand Dollars (\$1,000).

14. The total combined assessed penalty for Safety Order Nos. 1, 2, and 3 is One Hundred Fifty-One Thousand Ninety-Eight Dollars (\$151,098).

PART III.

15. The Safety Order is hereby amended as follows.

16. Safety Order 1, Item 1 is upheld in its entirety.

17. Safety Order 1, Item 2 is upheld in its entirety.

18. Safety Order 1, Item 3 is upheld in its entirety.

19. Safety Order 1, Item 4 is upheld in its entirety.

20. Safety Order 1, Item 5 is upheld in its entirety.

21. Safety Order 1, Item 6 is upheld in its entirety.

22. Safety Order 2, Item 1 is reclassified as a “Serious” violation as otherwise originally cited and the penalty is reduced to Three Thousand Five Hundred Dollars (\$3,500).

23. Safety Order 3, Item 1 is upheld in its entirety.

24. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Twenty-Two Thousand Dollars (\$22,000).

25. Upon execution of this Agreed Entry by both parties, and payment of the agreed penalty, Complainant, in its normal course of business, will report to Federal OSHA that Respondent no longer qualifies for the Severe Violator Enforcement Program

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

28. 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.

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

PART IV.

30. 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.

31. 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.

32. 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.

33. 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 3<sup>RD</sup> day of May, 2021.

ROWE TRUCK

By: 

Printed: L. W. WILCROT

Title: VICE PRESIDENT / GM

COMMISSIONER OF LABOR

By: 

Michelle L. Ellison,  
Deputy Commissioner of IOSHA

Approved as to Form:

By: 

A. Jack Finklea  
Counsel for Respondent

By: 

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**


---

<b>To:</b> Rowe Truck and its successors 506 East 2nd street Otterbein, IN 47970	<b>Inspection Number:</b> 318122603 <b>CSHO ID:</b> V1065 <b>Optional Report No.:</b> 01120 <b>Inspection Date(s):</b> 5/21/2020 - 11/10/2020 <b>Issuance Date:</b> 11/19/2020
--	--

**Inspection Site:**  
 2500 Veterans Memorial Parkway E  
 Lafayette, IN 47905

*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 11/19/2020. 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:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**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 crushing hazards from potential collapse of damaged industrial steel storage racks:

Parts department warehouse - Rack columns on racking used to store items were damaged and bent, which exposed employees to caught under and struck by hazards.

AMONG OTHER METHODS, FEASIBLE MEANS OF ABATEMENT MAY INCLUDE: Unload and repair damaged storage rack components per Section 1.4.9 of ANSI MH16.1:2012 Specification for the Design, Testing and Utilization of Industrial Steel Storage Racks.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$3,500.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.28(b)(1)(i): The employer did not 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 was protected from falling by one or more of the following: (A) Guardrail systems; (B) Safety net systems; or (C) Personal fall protection systems, such as personal fall arrest, travel restraint, or positioning systems:

Parts warehouse – An employee who used a Crown powered industrial truck was not protected from a fall hazard of approximately 7-feet 6-inches from the elevated portion of the powered industrial truck to the floor below.

<b>Date By Which Violation Must Be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$3,500.00</b>

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.30(a)(1): Before any employee was exposed to a fall hazard, the employer did not provide training for each employee who used personal fall protection systems or who was required to be trained as specified elsewhere in this subpart. Employers did not ensure employees are trained in the requirements of this paragraph on or before May 17, 2017:

Parts warehouse – Employees who were exposed to a fall hazard of about 7-feet 6-inches from the elevated portion of a Crown powered industrial truck were not trained to use personal fall protection systems.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$3,500.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.132(d)(1): The employer did not assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE):

Facility - A workplace hazard assessment was not completed and documented for a workplace where employees were exposed to hazards such as, but not limited to, a fall hazard of up to 7-feet 6-inches.

**Date By Which Violation Must Be Abated:** 12/28/2020  
**Proposed Penalty:** \$3,500.00

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**Safety Order 01 Item 005**                      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:

Facility – Safety data sheets were not readily available for hazardous chemicals such as, but not limited to, brake cleaner and propane.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$1,750.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**Safety Order 01 Item 006**                      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 – Employees who used hazardous chemicals such as, but not limited to, brake cleaner and propane, were not trained on the hazardous chemicals, which exposed the employees to chemical hazards.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$1,750.00**



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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.178(l)(2)(ii): The employer did not ensure that each operator had successfully completed the training consisting of a combination of formal instruction (e.g., lecture, discussion, interactive computer learning, video tape, written material), practical training (demonstrations performed by the trainer and practical exercises performed by the trainee), and evaluation of the operator's performance in the workplace:

Parts warehouse – Employees who operated equipment such as, but not limited to, a Crown powered industrial truck were not effectively trained and certified in use of the powered industrial truck, which exposed employees to struck-by, struck-against, and fall hazards.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$132,598.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

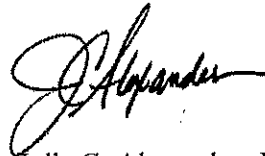
**Safety Order 03 Item 001**                      Type of Violation: **NonSerious**

29 CFR 1904.39(a)(1): Within eight (8) hours after the death of any employee as a result of a work-related incident, an employer did not report the fatality to the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor:

Facility – On or about 5/19/2020 a work related fatality was not reported to OSHA within 8-hours as required.

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

**Corrected During Inspection**  
**\$1,000.00**



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:** Rowe Truck  
and its successors  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905  
**Issuance Date:** 11/19/2020

### Summary of Penalties for Inspection Number: 318122603

Safety Order 1, Serious	= \$17,500.00
Safety Order 2, Willful	= \$132,598.00
Safety Order 3, NonSerious	= \$1,000.00
<b>TOTAL PENALTIES</b>	<b>= \$151,098.00</b>

---

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

11/19/2020

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:**  
Rowe Truck  
and its successors  
506 East 2nd street  
Otterbein, IN 47970

**Inspection Number:** 318122603  
**CSHO ID:** V1065  
**Optional Report No.:** 01120  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020

**Inspection Site:**  
2500 Veterans Memorial Parkway E  
Lafayette, IN 47905

*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.

**NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 11/19/2020. 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:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**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 crushing hazards from potential collapse of damaged industrial steel storage racks:

Parts department warehouse - Rack columns on racking used to store items were damaged and bent, which exposed employees to caught under and struck by hazards.

AMONG OTHER METHODS, FEASIBLE MEANS OF ABATEMENT MAY INCLUDE: Unload and repair damaged storage rack components per Section 1.4.9 of ANSI MH16.1:2012 Specification for the Design, Testing and Utilization of Industrial Steel Storage Racks.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$3,500.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.28(b)(1)(i): The employer did not 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 was protected from falling by one or more of the following: (A) Guardrail systems; (B) Safety net systems; or (C) Personal fall protection systems, such as personal fall arrest, travel restraint, or positioning systems:

Parts warehouse – An employee who used a Crown powered industrial truck was not protected from a fall hazard of approximately 7-feet 6-inches from the elevated portion of the powered industrial truck to the floor below.

<b>Date By Which Violation Must Be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$3,500.00</b>

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.30(a)(1): Before any employee was exposed to a fall hazard, the employer did not provide training for each employee who used personal fall protection systems or who was required to be trained as specified elsewhere in this subpart. Employers did not ensure employees are trained in the requirements of this paragraph on or before May 17, 2017:

Parts warehouse – Employees who were exposed to a fall hazard of about 7-feet 6-inches from the elevated portion of a Crown powered industrial truck were not trained to use personal fall protection systems.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$3,500.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.132(d)(1): The employer did not assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE):

Facility - A workplace hazard assessment was not completed and documented for a workplace where employees were exposed to hazards such as, but not limited to, a fall hazard of up to 7-feet 6-inches.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$3,500.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**Safety Order 01 Item 005**                      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:

Facility – Safety data sheets were not readily available for hazardous chemicals such as, but not limited to, brake cleaner and propane.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$1,750.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**Safety Order 01 Item 006**                      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 – Employees who used hazardous chemicals such as, but not limited to, brake cleaner and propane, were not trained on the hazardous chemicals, which exposed the employees to chemical hazards.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$1,750.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

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

29 CFR 1910.178(l)(2)(ii): The employer did not ensure that each operator had successfully completed the training consisting of a combination of formal instruction (e.g., lecture, discussion, interactive computer learning, video tape, written material), practical training (demonstrations performed by the trainer and practical exercises performed by the trainee), and evaluation of the operator's performance in the workplace:

Parts warehouse – Employees who operated equipment such as, but not limited to, a Crown powered industrial truck were not effectively trained and certified in use of the powered industrial truck, which exposed employees to struck-by, struck-against, and fall hazards.

**Date By Which Violation Must Be Abated:**                      **12/28/2020**  
**Proposed Penalty:**    **\$132,598.00**

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

**Inspection Number:** 318122603  
**Inspection Date(s):** 5/21/2020 - 11/10/2020  
**Issuance Date:** 11/19/2020  
**CSHO ID:** V1065  
**Optional Report No.:** 01120

**Safety Order and Notification of Penalty**

**Company Name:** Rowe Truck  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905

---

**Safety Order 03 Item 001**                      Type of Violation: **NonSerious**

29 CFR 1904.39(a)(1): Within eight (8) hours after the death of any employee as a result of a work-related incident, an employer did not report the fatality to the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor:

Facility – On or about 5/19/2020 a work related fatality was not reported to OSHA within 8-hours as required.

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

**Corrected During Inspection**  
**\$1,000.00**



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:** Rowe Truck  
and its successors  
**Inspection Site:** 2500 Veterans Memorial Parkway E, Lafayette, IN 47905  
**Issuance Date:** 11/19/2020

### Summary of Penalties for Inspection Number: 318122603

<b>Safety Order 1, Serious</b>	<b>= \$17,500.00</b>
<b>Safety Order 2, Willful</b>	<b>= \$132,598.00</b>
<b>Safety Order 3, NonSerious</b>	<b>= \$1,000.00</b>
<b>TOTAL PENALTIES</b>	<b>= \$151,098.00</b>

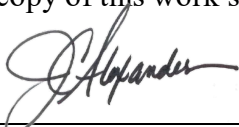
---

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

11/19/2020

\_\_\_\_\_  
Date