

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.)
)
DALTON CORP.)
AND ITS SUCCESSORS,)
)
Respondent.)

OALP CASE NO. DOL-2303-000892
BSR DOCKET NO. 23-011

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter “Complainant”) and Dalton Corp. (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 November 3, 2022, through January 11, 2023, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent’s worksite located at 1900 E. Jefferson St., Warsaw, IN 46580.

2. On February 7, 2023, Complainant issued a Safety Order and Notification of Penalty (hereinafter “Safety Order”) resulting from Indiana Department of Labor Inspection No. 1632275 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 March 1, 2023, Respondent duly and timely petitioned for review of only Safety Order 1, Item 1. Items 2a, 2b, and 3 were not contested and the penalties for those citations were paid in full.

PART II.

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

5. Safety Order 1, Item 1 alleges a “Serious” violation of 29 CFR 1910.1053(c) and assesses a penalty of Seven Thousand Dollars (\$7,000).

6. Safety Order 1, Item 2a alleges a “Serious” violation of 29 CFR 1910.1053(d)(3)(iii) and assesses a penalty, shared with Item 2b, of Seven Thousand Dollars (\$7,000).

7. Safety Order 1, Item 2b alleges a “Serious” violation of 29 CFR 1910.1053(d)(3)(iv) and assesses no additional penalty to what is assessed in Item 2a.

8. Safety Order 1, Item 3 alleges a “Serious” violation of 29 CFR 1910.1053(i)(2) and assesses a penalty of Seven Thousand Dollars (\$7,000).

9. The total assessed penalty for Safety Order 1 is Twenty-One Thousand Dollars (\$21,000).

PART III.

10. The Safety Order is hereby amended as follows.

11. Safety Order 1, Item 1 is upheld, but re-classified to “NonSerious” and retains the penalty originally cited.

12. Safety Order 1, Items 2a, 2b, and 3 were not contested, have been paid in full, and are not a part of this Agreed Entry.

13. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Seven Thousand Dollars (\$7,000).

14. The following is agreed abatement timing for Safety Order, Item 1:

- a. Silica assessment and evaluation by a third-party consultant already completed.
- b. Selection of optimum control methods and completion of design by December 31, 2023.
- c. Procurement, installation, and operation of selected control measures and testing for results of new engineering controls by December 31, 2024.
- d. Respondent shall provide an abatement plan and at least one progress report every ninety (90) days until abatement complete to Complainant pursuant to 29 C.F.R. § 1903.19(e) and (f).

15. In consideration for reclassification of Safety Order 1, Item 1, Respondent agrees to complete the following enhanced abatement and provide Complainant with proof of each within thirty (30) days following the issuance of a Final Order in this matter:

- a. Respondent has hired a full-time EHS Manager with OSHA 10 and 30 hour certification to manage the implementation of feasible engineering and administrative controls to reduce the potential exposure to silica.
- b. Respondent will hire an EHS Coordinator with OSHA 10 and 30 hour certification to assist the EHS manager.

16. 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”).

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

18. 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 sending confirmation of abatement, including a detailed description of what was done along with any supporting documentation and photographs, to IOSHA by email to abatement@dol.in.gov.

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

PART IV.

20. 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.

21. 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.

22. 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.

23. 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 20 day of September 2023.

DALTON CORP.

By: 

Printed: C. Todd Binning

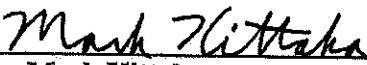
Title: EHS Manager

COMMISSIONER OF LABOR

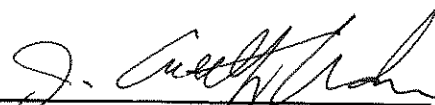
By: 

FR Jameson Berry,
Director of Health Compliance,
IOSHA

Approved as to Form:

By: 

Mark Klittaka
Counsel for Respondent

By: 

J. Anthony Hardman,
Counsel for Complainant



INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR
 David Redden, Commissioner
 402 West Washington Street, Room W195
 Indianapolis, Indiana 46204-2751
 Phone: (317) 232-2655
 Fax: (317) 233-3790

Safety Order and Notification of Penalty

To:
 Dalton Corporation
 and its successors
 1900 E Jefferson St.
 Warsaw, IN 46580

Inspection Number: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Inspection Site:
 1900 E Jefferson St
 Warsaw, IN 46580

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 workplace 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 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 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 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. 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. 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, 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 02/07/2023.

The Informal Conference will be held:

_____ Virtually/Telephonically via Microsoft Teams

Call-in Number: _____

Conference ID: _____

_____ In-person at the Indiana Department of Labor, located at the following address:

402 West Washington Street, Room W195
Indianapolis, Indiana 46204

Meeting/Conference Room: _____

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: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

Safety Order Item 1 Type of Violation: **Serious**

29 CFR 1910.1053(c): The employer did not ensure that no employee was exposed to an airborne concentration of respirable crystalline silica in excess of 50 µm/m³, calculated as an 8-hour TWA:

a) A casting sorter was exposed to respirable crystalline silica at 101.7 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 2.0 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 452 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 28 minutes not sampled.

b) A casting sorter was exposed to respirable crystalline silica at 82.1 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 1.6 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 452 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 28 minutes not sampled.

c) A casting sorter was exposed to respirable crystalline silica at 68.2 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 1.3 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 469 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 11 minutes not sampled.

Abatement Schedule

STEP 1- A written detailed plan of abatement shall be submitted to the Director outlining a schedule for the implementation of engineering and/or administrative measures to control employee exposures to hazardous substances as referenced in this Safety Order. This plan shall include, at a minimum, target dates for the following actions which must be consistent with the abatement dates required by this Safety Order:

- (1) Evaluation of engineering/administrative control options;
- (2) Selection of optimum control methods and completion of design;
- (3) Procurement, installation and operation of selected control measures;
- (4) Testing and acceptance or modification/redesign of controls.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1632275
CSHO ID: K9073
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Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

All proposed control measures shall be approved for each particular use by a competent industrial hygienist or other technically qualified person. 30-day progress reports are required during the abatement period.

Date By Which STEP 1 Must be Abated **March 24, 2023**

STEP 2- Abatement shall have been completed by the implementation of feasible engineering and/or administrative controls upon verification of their effectiveness in achieving compliance.

Date By Which STEP 2 Must be Abated **June 16, 2023**

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: **June 16, 2023**
Proposed Penalty: **\$7,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

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

Safety Order 1 Item 2 a Type of Violation: **Serious**

29 CFR 1910.1053(d)(3)(iii): Where the most recent exposure monitoring indicated that employee exposures were at or above the action level but at or below the PEL, the employer did not repeat such monitoring within six months of the most recent monitoring:

a) An employee was exposed to respirable crystalline silica at 30.61 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 1.2 times the action level of 25 $\mu\text{g}/\text{m}^3$. Employer last conducted air monitoring on 3/10/22 with results above the action level being detected.

b) An employee was exposed to respirable crystalline silica at 25.14 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); just above the action level of 25 $\mu\text{g}/\text{m}^3$. Employer last conducted air monitoring on 3/10/22 with results above the action level being detected.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

March 10, 2023
\$7,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

Safety Order 1 Item 2 b Type of Violation: **Serious**

29 CFR 1910.1053(d)(3)(iv): Where the most recent exposure monitoring indicated that employee exposures were above the PEL, the employer did not repeat such monitoring within three months of the most recent monitoring:

a) A casting sorter was exposed to respirable crystalline silica at 101.7 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 2.0 times the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$. The employer had not monitored exposure since March 11, 2022.

b) A casting sorter was exposed to respirable crystalline silica at 82.1 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 1.6 times the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$. The employer had not monitored exposure since March 11, 2022.

c) A casting sorter was exposed to respirable crystalline silica at 68.2 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 1.3 times the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$. The employer had not monitored exposure since March 11, 2022.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

March 03, 2023

Proposed Penalty:

\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

Safety Order 1 Item 3 Type of Violation: **Serious**

29 CFR 1910.1053(i)(2): The employer did not make available an initial (baseline) medical examination within 30 days after initial assignment when the employee had not received a medical examination that meets the requirements of this section within the last three years:

a) A casting sorter was exposed to respirable crystalline silica at 101.7 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 2.0 times the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$. The exposure level was derived from a 452 minute sampling period conducted on 11/16/2022. The casting sorter had not been included in the facility's medical surveillance program.

b) A casting sorter was exposed to respirable crystalline silica at 82.1 micrograms per cubic meter air ($\mu\text{g}/\text{m}^3$) for an 8-hour time-weighted average (TWA); approximately 1.6 times the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$. The exposure level was derived from a 452 minute sampling period conducted on 11/16/22. Zero exposure was assumed for the 28 minutes not sampled. The casting sorter had not been included in the facility's medical surveillance program.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

March 03, 2023
\$7,000.00


Jameson Berry
IOSHA Director



INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR
David Redden, Commissioner
402 West Washington Street, Room W195
Indianapolis, Indiana 46204-2751
Phone: (317) 232-2655
Fax: (317) 233-3790

INVOICE/DEBT COLLECTION NOTICE

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580
Issuance Date: 02/07/2023

Summary of Penalties for Inspection Number: 1632275

Safety Order 1 Item 1, Serious	\$7,000.00
Safety Order 1 Item 2a, Serious	\$7,000.00
Safety Order 1 Item 2b, Serious	\$0.00
Safety Order 1 Item 3, Serious	\$7,000.00

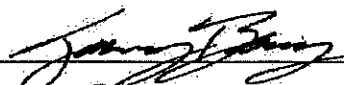
TOTAL PROPOSED PENALTIES: **\$21,000.00**

Penalties are due within fifteen (15) working days of receipt of this notification unless requested. 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 worksheet has been provided to assist in providing the required abatement information. A completed copy of this worksheet should be posted at the worksite with safety orders.



Jameson Berry
IOSHA Director

2/7/2023

Date



INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR

David Redden, Commissioner

402 West Washington Street, Room W195

Indianapolis, Indiana 46204-2751

Phone: (317) 232-2655

Fax: (317) 233-3790

Safety Order and Notification of Penalty

To:

Dalton Corporation
and its successors
1900 E Jefferson St.
Warsaw, IN 46580

Inspection Number: 1632275

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Optional Report No.: 21-22

Inspection Date(s): 11/03/2022 - 01/11/2023

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1900 E Jefferson St
Warsaw, IN 46580

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.

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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 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.

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

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

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

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty 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.

PMA's - 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 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. 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. 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, 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 02/07/2023.

The Informal Conference will be held:

_____ Virtually/Telephonically via Microsoft Teams

Call-in Number: _____

Conference ID: _____

_____ In-person at the Indiana Department of Labor, located at the following address:

402 West Washington Street, Room W195
Indianapolis, Indiana 46204

Meeting/Conference Room: _____

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: 1632275
CSHO ID: K9073
Optional Report No.: 21-22
Inspection Date(s): 11/03/2022 - 01/11/2023
Issuance Date: 02/07/2023

Safety Order and Notification of Penalty

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580

Safety Order 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.1053(c): The employer did not ensure that no employee was exposed to an airborne concentration of respirable crystalline silica in excess of 50 µm/m³, calculated as an 8-hour TWA:

a) A casting sorter was exposed to respirable crystalline silica at 101.7 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 2.0 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 452 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 28 minutes not sampled.

b) A casting sorter was exposed to respirable crystalline silica at 82.1 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 1.6 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 452 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 28 minutes not sampled.

c) A casting sorter was exposed to respirable crystalline silica at 68.2 micrograms per cubic meter air (µg/m³) for an 8-hour time-weighted average (TWA); approximately 1.3 times the permissible exposure limit (PEL) of 50 µg/m³. The exposure level was derived from a 469 minute sampling period conducted on 11/16/2022. Zero exposure was assumed for the 11 minutes not sampled.

Abatement Schedule

STEP 1- A written detailed plan of abatement shall be submitted to the Director outlining a schedule for the implementation of engineering and/or administrative measures to control employee exposures to hazardous substances as referenced in this Safety Order. This plan shall include, at a minimum, target dates for the following actions which must be consistent with the abatement dates required by this Safety Order:

- (1) Evaluation of engineering/administrative control options;
- (2) Selection of optimum control methods and completion of design;
- (3) Procurement, installation and operation of selected control measures;
- (4) Testing and acceptance or modification/redesign of controls.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1632275
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All proposed control measures shall be approved for each particular use by a competent industrial hygienist or other technically qualified person. 30-day progress reports are required during the abatement period.

Date By Which STEP 1 Must be Abated March 24, 2023

STEP 2- Abatement shall have been completed by the implementation of feasible engineering and/or administrative controls upon verification of their effectiveness in achieving compliance.

Date By Which STEP 2 Must be Abated June 16, 2023

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: June 16, 2023
Proposed Penalty: \$7,000.00



INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR
David Redden, Commissioner
402 West Washington Street, Room W195
Indianapolis, Indiana 46204-2751
Phone: (317) 232-2655
Fax: (317) 233-3790

INVOICE/DEBT COLLECTION NOTICE

Company Name: Dalton Corporation
Inspection Site: 1900 E Jefferson St, Warsaw, IN 46580
Issuance Date: 02/07/2023

Summary of Penalties for Inspection Number: 1632275

Safety Order 1 Item 1, Serious	\$7,000.00
Safety Order 1 Item 2a, Serious	\$7,000.00
Safety Order 1 Item 2b, Serious	\$0.00
Safety Order 1 Item 3, Serious	\$7,000.00

TOTAL PROPOSED PENALTIES: \$21,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless requested. 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 worksheet has been provided to assist in providing the required abatement information. A completed copy of this worksheet should be posted at the worksite with safety orders.



Jameson Berry
IOSHA Director

2/7/2023

Date