

# Indiana Department of Labor

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



*Certified mail #91 7190 00052720 0061 0109 6-23-16 jto*

## Safety Order and Notification of Penalty

**To:**  
Eagle Builders  
14918 3rd Road  
Plymouth, IN 46563

**Inspection Number:** 318013281  
**CSHO ID:** G3882  
**Optional Report No.:** 01916  
**Inspection Date(s):** 4/29/2016 - 5/10/2016  
**Issuance Date:** 6/23/2016

**Inspection Site:**  
3a lot on St. Peters  
South Bend, IN 46616

*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 agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. 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 6/23/2016. 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:** 318013281  
**Inspection Date(s):** 4/29/2016 - 5/10/2016  
**Issuance Date:** 6/23/2016  
**CSHO ID:** G3882  
**Optional Report No.:** 01916

**Safety Order and Notification of Penalty**

**Company Name:** Eagle Builders  
**Inspection Site:** 3a lot on St. Peters, South Bend, IN 46616

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

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met: (Construction Reference: 1926.59)

Jobsite - On April 29, 2016 the employer did not maintain such program on jobsite.

**Date By Which Violation Must Be Abated:**                      **7/26/2016**  
**Proposed Penalty:**    **\$450.00**

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Occupational Safety and Health Administration

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**Safety Order 01 Item 002**

Type of Violation: **Serious**

29 CFR 1910.1200(g)(1): The employer did not have a safety data sheet for each hazardous chemical which they used: (Construction Reference: 1926.59)

Jobsite - On April 29, 2016 Safety Data Sheets (SDS) were not maintained on the job site for any products in use or available for use such as but not limited to oils for lubrication of tools and equipment.

**Date By Which Violation Must Be Abated:** 7/26/2016  
**Proposed Penalty:** \$450.00

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

29 CFR 1926.20(b)(1): The employer did not initiate and maintain such programs as may be necessary to comply with this part.

Jobsite roof area - On April 29, 2016 the employer had not developed, implemented, or enforced and accident prevention safety & health program which included but is not limited to the following items:

- (1) A statement of management commitment toward the identification and evaluation of occupational hazards.
- (2) Establishment of employee participation in safety meetings and inspections.
- (3) Development of documentation of the instructions of each employee in the recognition and avoidance of unsafe work.

**Date By Which Violation Must Be Abated:**                      **7/26/2016**  
**Proposed Penalty:**    **\$450.00**



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

29 CFR 1926.20(b)(2): Inspections of the jobsite, materials, and equipment were not made by a competent person designated by the employer.

Jobsite roof area - On April 29, 2016, inspections of the jobsite, materials, and equipment was not performed by a competent person where employees were exposed to falls.

**Date By Which Violation Must Be Abated:**                      **7/26/2016**  
**Proposed Penalty:**    **\$450.00**

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Occupational Safety and Health Administration

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**Safety Order 01 Item 005**

Type of Violation: **Serious**

29 CFR 1926.20(b)(3): The use of any machinery, tool, material, or equipment was not in compliance with the applicable requirements of this part:

Jobsite - On April 29, 2016, the Gehl telescopic boom forklift Dynalift 883, serial number 127957 was not used in accordance with manufacturers recommendations, in that the owner installed a make shift scaffold on the forks without manufactures prior written approval.

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

**Corrected During Inspection**  
**\$1,500.00**

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Occupational Safety and Health Administration

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**Safety Order 01 Item 006**

Type of Violation: **Serious**

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Jobsite - On April 29, 2016, employees were not instructed in the recognition and avoidance of unsafe conditions applicable to their work environment such as but not limited to those connected with PPE.

**Date By Which Violation Must Be Abated:** 7/26/2016  
**Proposed Penalty:** \$450.00

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

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**Safety Order and Notification of Penalty**

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

29 CFR 1926.95(a): Personal protective equipment including personal protective equipment (PPE) for eyes, face head, and extremities, protective clothing, respirator devices, and protective shields & barriers was not provided, used or maintained.

Jobsite - On April 29, 2016, safety glasses were not being used or maintained for employees exposed to hazards installing plywood.

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

**Corrected During Inspection**  
**\$1,500.00**

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**Safety Order 01 Item 008**

Type of Violation: **Serious**

29 CFR 1926.100(a): Employees working in areas where there was a possible danger of head injury from impact, or falling or flying objects, or from electrical shock and burns, were not protected by protective helmets:

Jobsite - On April 29, 2016, 3 employee(s) working on the ground level, were not provided and/or wearing protective helmets.

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

**Corrected During Inspection**  
**\$1,500.00**

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**Safety Order 01 Item 009**                      Type of Violation: **Serious**

29 CFR 1926.451(g)(1): Employees on scaffolds more than 10 feet (3.1 m) above a lower level were not protected from falling to that lower level by fall protection established in paragraphs (g)(1)(i)-(vii) of this section:

Job site scaffold - On April 29, 2016, an employee working from the platform of a make shift scaffold approximately 15 feet above a lower level was not protected from falling by a personal fall arrest systems or guardrail system.

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

**Corrected During Inspection**  
**\$1,500.00**

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Occupational Safety and Health Administration

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**Safety Order 01 Item 010**                      Type of Violation: **Serious**

29 CFR 1926.454(a): The employer did not have each employee who performed work while on a scaffold trained by a qualified person to recognize any hazard associated with the type of scaffold being used and to understand the procedures to control or minimize those hazards.

Job site - On April 29, 2016, employee(s) engaged in performing work, while on a scaffold, had not been trained by a qualified person.

**Date By Which Violation Must Be Abated:**                      **7/26/2016**  
**Proposed Penalty:**    **\$450.00**

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

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**Safety Order 01 Item 011**                      Type of Violation: **Serious**

29 CFR 1926.501(b)(11): Each employee engaged in roofing on steep slope roofs with unprotected sides or edges 6 feet or more above lower levels was not protected for falling by guardrail systems with toe board, safety net systems or personal fall arrest systems.

Roof Area - On April 29, 2016, (2) employees engaged in carpentry activities on a 8 inch in 12 inch sloped roof, 19 feet above the lower level, were not protected from falls.

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

**Corrected During Inspection**  
**\$1,500.00**



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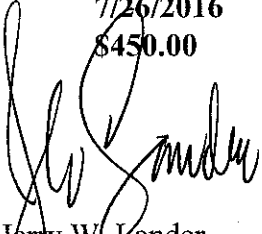
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**Safety Order 01 Item 012**                      Type of Violation: **Serious**

29 CFR 1926.503(a)(1): The employer did not provide a training program for each employee exposed to fall hazards:

Jobsite - On April 29, 2016 employee(s) are exposed to fall hazards and were not provided with fall training program.

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

7/26/2016  
\$450.00  
  
Jerry W. Lander  
Director of Construction Safety

# Indiana Department of Labor

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



## INVOICE/DEBT COLLECTION NOTICE

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**Company Name:** Eagle Builders  
**Inspection Site:** 3a lot on St. Peters, South Bend, IN 46616  
**Issuance Date:** 6/23/2016

**Summary of Penalties for Inspection Number: 318013281**

**Safety Order 1, Serious** = \$10,650.00  
**TOTAL PENALTIES** = \$10,650.00

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Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

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).

  
\_\_\_\_\_  
Jerry W. Lander  
Director of Construction Safety

6 23 16  
Date