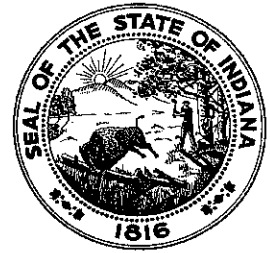


Indiana Department of Labor

402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: 317/232-1979 Fax: 317/233-3790



*Certified mail # 7003 1010 0003 5732 3180 6-12-12 JH*

## Safety Order and Notification of Penalty

<b>To:</b>	<b>Inspection Number:</b>	315043935
Smith Erectors Inc, and its successors 480 West Scott Street Attn: Justin Smith Markle, IN 46770	<b>Inspection Date(s):</b>	12/13/2011 - 01/12/2012
	<b>Issuance Date:</b>	06/12/2012

**Inspection Site:**

801 E Houston Street  
Garrett High School (Addition)  
Garrett, IN 46738

*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.

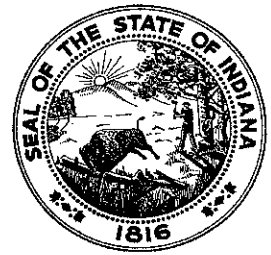
**Notification of Corrective Action** - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance 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.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

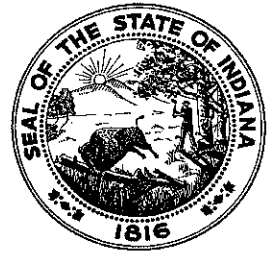
An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 06/12/2012. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on \_\_\_\_\_ at \_\_\_\_\_.

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:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

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

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

29 CFR 1910.1200(f)(5)(i): The employer did not ensure that each container of hazardous chemicals in the workplace was labeled, tagged or marked with the identity of the hazardous chemical(s) contained therein: (Construction Reference: 1926.59)

Exterior South Wall----- On December 13, 2011 and before, the metal fuel tank containing diesel fuel per foreman did not have any label identifying contents.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$900.00**

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

29 CFR 1910.1200(f)(5)(ii): The employer did not ensure that each container of hazardous chemicals in the workplace was labeled, tagged or marked with the appropriate hazard warnings: (Construction Reference: 1926.59)

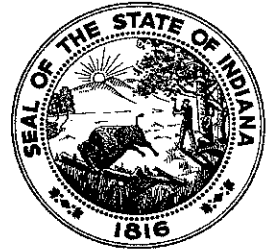
South Wall ----- On December 13, 2011 and before, the metal fuel tank containing diesel fuel did not have a hazard warning label.

**Date By Which Violation Must be Abated:**

**Indiana Department of Labor**

Occupational Safety and Health Administration

**Inspection Number:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

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

29 CFR 1926.20(b)(1): The employer did initiate and maintain such programs as may be necessary to comply with this part:

Job site ----- On December 13, 2011 and before, the employers written safety & health program was not effective and/or enforced in the areas of fire protection, electricity, steel erection and cranes as evidenced by the number and/or type of hazards observed during the inspection.

**Date By Which Violation Must be Abated:** 07/30/2012  
**Proposed Penalty:** \$3,000.00

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

29 CFR 1926.20(b)(2): The employers safety program did not provide for frequent and regular inspections of the job site and equipment by a competent person:

Job site ----- On December 29, 2011 and before, the employers designated competent person failed to identify existing and predictable hazards and/or take the necessary measures to alleviate the hazards of fire protection for fuel tanks, electricity, cranes and steel erection.

**Date By Which Violation Must be Abated:** 07/09/2012  
**Proposed Penalty:** \$3,000.00

**Indiana Department of Labor**

Occupational Safety and Health Administration

**Inspection Number:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

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

**Safety Order 1 Item 4a Type of Violation: **Serious****

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe condition(s) and the regulation(s) applicable to his work environment to control or eliminate any hazard(s) or other exposure to illness or injury:

Job site ---- On December 20, 2011 and before, all employees had not been instructed or adequately instructed in the recognition and avoidance of unsafe conditions and in the regulations applicable to their work environment such as but not limited to fire protection, electrical, steel erection and cranes.

**Date By Which Violation Must be Abated:** 07/30/2012  
**Proposed Penalty:** \$3,000.00

**Safety Order 1 Item 4b Type of Violation: **Serious****

29 CFR 1926.503(c)(3): The employer did not retrain each employee when use of fall protection or equipment indicated that the employee(s) had not retained the requisite understanding or skill:

Job site ---- On December 13, 2011 six employees had not been retrained in the use of fall protection systems where the employees were working on the 46 feet high standing seam roof without fall protection.

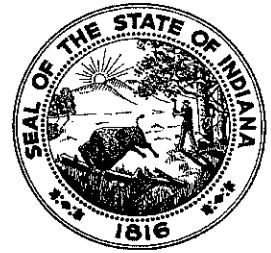
**Date By Which Violation Must be Abated:** 07/15/2012



**Indiana Department of Labor**

Occupational Safety and Health Administration

**Inspection Number:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

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

**Safety Order 1 Item 5a** Type of Violation: **Serious**

29 CFR 1926.151(a)(3): The vicinity of operations which constituted a fire hazard were not conspicuously posted: "No Smoking Or Open Flame":

South Wall ---- On December 13, 2011 and before, signs were not posted stating "no smoking or open flame" in the vicinity of a 60 gallon metal fuel tank containing diesel fuel.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$900.00**

**Safety Order 1 Item 5b** Type of Violation: **Serious**

29 CFR 1926.152(c)(4)(i): Portable outdoor storage tanks for flammable or combustible liquids were nearer than 20 feet from the building(s):

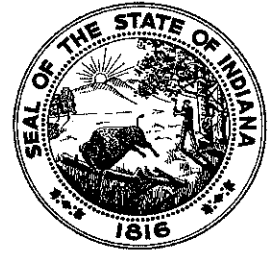
South Wall ---- On December 13, 2011 and before, A portable outdoor storage tank containing 60 gallons of diesel were not further than 20 feet from the building under construction and the job trailer:

**Date By Which Violation Must be Abated:**

**Indiana Department of Labor**

Occupational Safety and Health Administration

Inspection Number: 315043935  
Inspection Dates: 12/13/2011 - 01/12/2012  
Issuance Date: 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

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

**Safety Order 1 Item 6a Type of Violation: **Serious****

29 CFR 1926.405(g)(2)(iv): Flexible cords were not connected to devices and fittings so that strain relief is provided to prevent pull from being directly transmitted to joints or terminal screws:

Unit C----- On December 28, 2011, the cord grip at the receptacle plug end of the extension cord was not gripping the cord cover.

**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$1,200.00

**Safety Order 1 Item 6b Type of Violation: **Serious****

29 CFR 1926.416(e)(1): Worn or frayed electric cords or cables were used:

Unit C----- On December 28, 2011, the red 50 foot long, round frayed extension cord charging a scissor lift was not prevented from being used or properly removed from service.

**Date By Which Violation Must be Abated:**

**Safety Order 1 Item 7 Type of Violation: **Serious****

1926 CFR 760(a)(1): Each employee engaged in steel erection on a walking/working surface with an unprotected side or edge, 15 feet above a lower level, was not protected from falling by guardrail systems, safety net systems, personal fall arrest, or restraint system, or any other means:

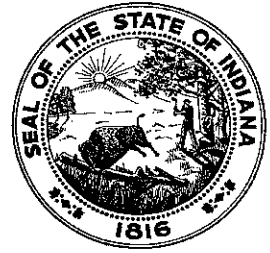
Roof ----- On December 13, 2011 and before, No fall protection was provided to employee(s), engaged in steel erection, on a walking/working surface, with an unprotected side or edge, 46 feet above a lower level.

**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$3,000.00

**Indiana Department of Labor**

Occupational Safety and Health Administration

**Inspection Number:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

**Safety Order 1 Item 8 Type of Violation: **Serious****

29 CFR 1926.760(d)(2): Fall arrest system components were used in fall restraint systems and the components did not conform to the criteria in 1926.502 (see Appendix G):

Roof ----- On December 19, 2011 the employee installing metal decking up to 46 feet above the ground using the fall restraint system with snap hooks connecting the lanyards which were of the locking type, but were not designed to be connected to each other and were engaged.

**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$1,500.00

**Safety Order 1 Item 9 Type of Violation: **Serious****

29 CFR 1926.1419(f): During operations requiring signaling , the ability to transmit signals between the operator and the signal person was not maintained:

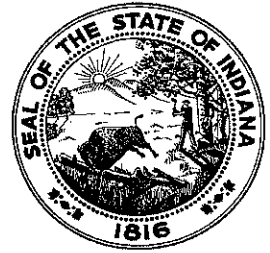
Job site ----- On or about December 13, 2011 the operator could not hear the signals being transmitted; therefore, communications were not maintained.

**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$1,500.00

**Indiana Department of Labor**

Occupational Safety and Health Administration

**Inspection Number:** 315043935  
**Inspection Dates:** 12/13/2011 - 01/12/2012  
**Issuance Date:** 06/12/2012



**Safety Order and Notification of Penalty**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition),  
Garrett, IN 46738

**Safety Order 1 Item 10 Type of Violation: **Serious****

29 CFR 1926.1424(a)(2): The employer did not prevent employees from entering the sing radius hazard areas:

(a) West Yard ----- On or about December 13, 2011 the employer had not trained all employees assigned to work on or near the equipment how to recognize the hazards associated with the rotating superstructure and did not erect and maintain control lines, warning lines, railings or other similar barriers to mark the boundaries of the hazard area.

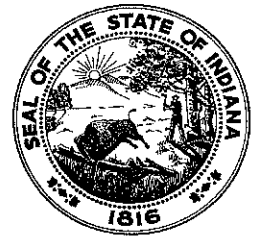
(b) East Yard ----- On December 19, 2011 the employer had not trained all employees assigned to work on or near the equipment how to recognize the hazards associated with the rotating superstructure and did not erect and maintain control lines, warning lines, railings or other similar barriers to mark the boundaries of the hazard area.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$1,500.00**

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

**Indiana Department of Labor**

Indiana Occupational Safety and Health Administration  
402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: 317/232-1979 Fax: 317/233-3790



**INVOICE/DEBT COLLECTION NOTICE**

**Company Name:** Smith Erectors Inc  
**Inspection Site:** 801 E Houston Street, Garrett High School (Addition), Garrett, IN 46738  
**Issuance Date:** 06/12/2012

**Summary of Penalties for Inspection Number** 315043935

<b>Safety Order 01, Serious</b>	=	\$19,500.00
Total Proposed Penalties		\$19,500.00

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 Compliance

Date

6/12/12