

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



Safety Order and Notification of Penalty

To:
Weihe Construction
and its successors
15215 Stoney Creek Way
Noblesville, IN 46060

Inspection Number: 318133568
CSHO ID: R8076
Optional Report No.: 2075-22
Inspection Date(s): 8/3/2021 - 9/3/2021
Issuance Date: 11/18/2021

Inspection Site:
Fairwood Subdivision
Plainfield, IN 46168

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 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 11/18/2021. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318133568
Inspection Date(s): 8/3/2021 - 9/3/2021
Issuance Date: 11/18/2021
CSHO ID: R8076
Optional Report No.: 2075-22

Safety Order and Notification of Penalty

Company Name: Weihe Construction
Inspection Site: Fairwood Subdivision, Plainfield, IN 46168

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

1926.1203(a): Before it begins work at a worksite, each employer must ensure that a competent person identifies all confined spaces in which one or more of the employees it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about August 2, 2021, before beginning work, the employer’s competent person failed to identify all confined spaces in which its employees are working and did not identify each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$6,300.00

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Occupational Safety and Health Administration

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

29CFR 1926.1203(d): If any employer decides that employees it directs will enter a permit space, that employer must have a written permit space program that complies with § 1926.1204 implemented at the construction site. The written program must be made available prior to and during entry operations for inspection by employees and their authorized representatives:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, the employer did not develop a written permit space program that complies with 1926.1204 implemented at the construction site.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$6,300.00

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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 01 Item 003a Type of Violation: **Serious**

29 CFR 1926.1203(e)(2)(ii): When entrance covers are removed, the opening must be immediately guarded by a railing, temporary cover, or other temporary barrier that will prevent an accidental fall through the opening and that will protect each employee working in the space from foreign objects entering the space:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, when entrance covers were removed the employer failed to ensure the opening was protected by guarding by railings, temporary covers, or by other acceptable barriers to protect employees from falls into the manhole and from objects entering the confined space.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **\$6,300.00**

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

29CFR 1926.1203(e)(2)(iii): Before an employee enters the space, the internal atmosphere must be tested, with a calibrated direct-reading instrument, for oxygen content, for flammable gases and vapors, and for potential toxic air contaminants, in that order. Any employee who enters the space, or that employee's authorized representative, must be provided an opportunity to observe the pre-entry testing required by this paragraph:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, the confined space was not tested prior to entry for oxygen content, for flammable gases, vapors, and for possible noxious air contaminants.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$0.00

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Company Name: Weihe Construction
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Safety Order 01 Item 003c Type of Violation: **Serious**

29 CFR 1926.1203(e)(2)(vi): The atmosphere within the space must be continuously monitored unless the entry employer can demonstrate that equipment for continuous monitoring is not commercially available or periodic monitoring is sufficient. If continuous monitoring is used, the employer must ensure that the monitoring equipment has an alarm that will notify all entrants if a specified atmospheric threshold is achieved, or that an employee will check the monitor with sufficient frequency to ensure that entrants have adequate time to escape. If continuous monitoring is not used, periodic monitoring is required. All monitoring must ensure that the continuous forced air ventilation is preventing the accumulation of a hazardous atmosphere. Any employee who enters the space, or that employee's authorized representative, must be provided with an opportunity to observe the testing required by this paragraph (e)(2)(vi):

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, the employer did not ensure there were no hazardous atmosphere conditions by evaluation of elements and testing as necessary when employees were inside the space.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

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

29 CFR 1926.1204(b): Identify and evaluate the hazards of permit spaces before employees enter them:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about August 2, 2021, during construction activities, the employer allowed employees to enter permit spaces and did not identify and evaluate the hazards of the permit spaces before employees enter them.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$6,300.00

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Company Name: Weihe Construction
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Safety Order 01 Item 005 Type of Violation: **Serious**

29CFR 1926.1207(a): The employer must provide training to each employee whose work is regulated by this standard, at no cost to the employee, and ensure that the employee possesses the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this standard. This training must result in an understanding of the hazards in the permit space and the methods used to isolate, control or in other ways protect employees from these hazards, and for those employees not authorized to perform entry rescues, in the dangers of attempting such rescues:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, the employer did not ensure the training resulted in an understanding of the hazards in the permit space and the methods used to isolate, control or in other ways protect employees from these hazards, and for those employees not authorized to perform entry rescues, in the dangers of attempting such rescues.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **\$6,300.00**

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Safety Order 01 Item 006 Type of Violation: **Serious**

29CFR 1926.1209(d): Entry attendant remains outside the permit space during entry operations until relieved by another attendant:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about, August 2, 2021, during construction activities, an attendant did not remain outside the permit confined space during operation, while testing for leaks in approximately 20-foot deep newly constructed sanitary sewer line.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$6,300.00

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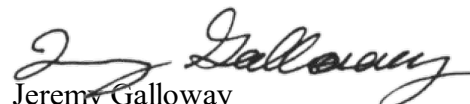
Company Name: Weihe Construction
Inspection Site: Fairwood Subdivision, Plainfield, IN 46168

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

29 CFR 1926.1211(c)(1): Each authorized entrant must use a chest or full body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, above the entrant's head, or at another point which the employer can establish presents a profile small enough for the successful removal of the entrant. Wristlets or anklets may be used in lieu of the chest or full body harness if the employer can demonstrate that the use of a chest or full body harness is infeasible or creates a greater hazard and that the use of wristlets or anklets is the safest and most effective alternative:

Jobsite – Fairwood Subdivision, 7794 Fairwood Blvd., Plainfield, IN 46168 – On or about August 2, 2021, during construction activities, the employer did not ensure the authorized entrant was wearing a chest or full body harness with a retrieval line attached while working in a confined space.

Date By Which Violation Must Be Abated:	Corrected During Inspection
Proposed Penalty:	\$6,300.00


Jeremy Galloway
Director of Construction Safety

Indiana Department of Labor

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



INVOICE/DEBT COLLECTION NOTICE

Company Name: Weihe Construction
and its successors
Inspection Site: Fairwood Subdivision, Plainfield, IN 46168
Issuance Date: 11/18/2021

Summary of Penalties for Inspection Number: 318133568

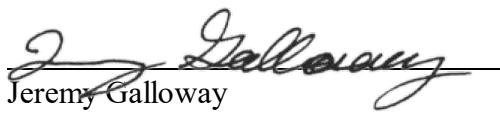
Safety Order 1, Serious = \$44,100.00
TOTAL PENALTIES = \$44,100.00

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. 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 work sheet should be posted at the worksite with the safety order(s).


Jeremy Galloway
Director of Construction Safety

11-18-2021
Date