

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



Safety Order and Notification of Penalty

To:
Kelley Automotive
and its successors
1313 South 13th Street
Decatur, IN 46733

Inspection Number: 1771372
CSHO ID: L3104
Optional Report No.: 21-24
Inspection Date(s): 08/27/2024 - 11/04/2024
Issuance Date: 11/22/2024

Inspection Site:
1313 South 13th Street
Decatur, IN 46733

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

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402 West Washington Street, Room W195
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NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the Safety Order(s) issued on 11/22/2024.

The Informal Conference will be held:

Date: _____

Time: _____

_____ **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: 1771372
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Optional Report No.: 21-24
Inspection Date(s): 08/27/2024 - 11/04/2024
Issuance Date: 11/22/2024



Safety Order and Notification of Penalty

Company Name: Kelley Automotive
Inspection Site: 1313 South 13th Street, Decatur, IN 46733

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 1 a Type of Violation: **Serious**

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

- a) Under-coat - Employees were exposed to respiratory distress when required to wear a 3M half mask respirator while spraying rust inhibitor and undercoating onto vehicles.
- b) Bed liner - Employees were exposed to respiratory discomfort when required to wear a full-face respirator while spraying bed liners using Patriot Line parts A and B.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	December 27, 2024
Proposed Penalty:	\$6,300.00

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Occupational Safety and Health Administration

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Safety Order and Notification of Penalty

Company Name: Kelley Automotive
Inspection Site: 1313 South 13th Street, Decatur, IN 46733

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

29 CFR 1910.134(f)(2): Employee(s) using tight-fitting facepiece respirators were not fit tested prior to initial use of the respirator:

- a) Undercoat - Employees were required to wear a 3M half-mask respirator when spraying rust inhibitor and uncoating to customer vehicles.
- b) Bed Liner - Employees were required to wear a full-face respirator while spraying bed liners using Patriot Line parts A and B. Employees were exposed over the ceiling for methylene bisphenyl isocyanate during the spraying operation.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	December 27, 2024
Proposed Penalty:	\$0.00

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Company Name: Kelley Automotive
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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 1 Item 2 a Type of Violation: **Serious**

29 CFR 1910.134(h)(1)(i): Respirators issued for the exclusive use of an employee were not cleaned and disinfected as often as necessary to be maintained in a sanitary condition:

Detail Building - Employees were exposed to skin irritation when respirators were not being cleaned, disinfected, and stored to maintain them in a sanitary condition. Dust and debris were inside the respirators.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

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Safety Order and Notification of Penalty

Company Name: Kelley Automotive
Inspection Site: 1313 South 13th Street, Decatur, IN 46733

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

29 CFR 1910.134(h)(2)(i): Respirators were not stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals or were not packed or stored to prevent deformation of the facepiece and exhalation valve:

Detail Building - Employees were exposed to skin irritation when respirators were not being cleaned, disinfected, and stored to maintain them in a sanitary condition. Dust and debris were inside the respirators.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	December 27, 2024
Proposed Penalty:	\$0.00

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

29 CFR 1910.134(k): The employer did not provide comprehensive, understandable training which did not occur annually and/or more often if necessary:

Detail Building - Employees were exposed to respiratory distress when spraying rust inhibitor, uncoating, and bed liners. Training was not provided to ensure the employees understood elements such as, but not limited to, how to wear, clean, and store the respirators used.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

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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 1 Item 3 a Type of Violation: **Serious**

29 CFR 1910.1000(a)(1): Employee(s) were exposed to an airborne concentration of methylene bisphenyl isocyanate listed in Table Z-1 in excess of the ceiling concentration of 0.2 mg/m³:

Bed liners - An employee was exposed to methylene bisphenyl isocyanate at 0.38 milligrams per cubic meter of air (mg/m³) for a ceiling of 15 minutes, approximately 1.9 times the ceiling exposure limit of 0.2 mg/m³. The exposure level was derived from a 15-minute sampling period conducted on 9/5/2024.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	February 25, 2025
Proposed Penalty:	\$6,300.00



Safety Order and Notification of Penalty

Company Name: Kelley Automotive
Inspection Site: 1313 South 13th Street, Decatur, IN 46733

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

29 CFR 1910.1000(e): Feasible administrative or engineering controls were not determined and implemented to achieve compliance with the limits prescribed in 29 CFR 1910.1000(a) through (d):

Bed liners - An employee was exposed to methylene bisphenyl isocyanate at 0.38 milligrams per cubic meter of air (mg/m³) for a ceiling of 15 minutes, approximately 1.9 times the ceiling exposure limit of 0.2 mg/m³. The exposure level was derived from a 15-minute sampling period conducted on 9/5/2024.

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.

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: December 27, 2024

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STEP 3- 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 3 Must be Abated: February 25, 2025

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	February 25, 2025
Proposed Penalty:	\$0.00



Jameson Berry
IOSHA Director



INVOICE/DEBT COLLECTION NOTICE

Company Name: Kelley Automotive
Inspection Site: 1313 South 13th Street, Decatur, IN 46733
Issuance Date: 11/22/2024

Summary of Penalties for Inspection Number: 1771372

Safety Order 1 Item 1a, Serious	\$6,300.00
Safety Order 1 Item 1b, Serious	\$0.00
Safety Order 1 Item 2a, Serious	\$6,300.00
Safety Order 1 Item 2b, Serious	\$0.00
Safety Order 1 Item 2c, Serious	\$0.00
Safety Order 1 Item 3a, Serious	\$6,300.00
Safety Order 1 Item 3b, Serious	\$0.00


TOTAL PROPOSED PENALTIES: \$18,900.00

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

11/22/2024

Date