

Indiana Department of Labor

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



Safety Order and Notification of Penalty

To:
Eagle Railcar Services - Washington, IN LLC
and its successors
1723 West Walnut Street
Washington, IN 47501

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Inspection Site:
1723 West Walnut Street
Washington, IN 47501

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

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 09/30/2022. The Informal Conference is scheduled for (date/time) _____.

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

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Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(2): Identify and evaluate the hazards of permit spaces before employees enter them:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not identify and evaluate the hazards of permit spaces before employees entered Railcar TILX 150459 for the assigned tasks that included inspection, cleaning, etc. with unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases.

Identify all railcars to be entered before each shift and discuss identified hazards with exposed employees prior to start of job task. Recommended hazards to include, but not limited to, safety data sheet information, bump testing pumps, obtaining and proper use of necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	November 16, 2022
Proposed Penalty:	\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(5)(i): Test conditions in the permit space to determine if acceptable entry conditions exist before entry is authorized to begin, except that, if isolation of the space is infeasible because the space is large or is part of a continuous system (such as a sewer), pre-entry testing shall be performed to the extent feasible before entry is authorized and, if entry is authorized, entry conditions shall be continuously monitored in the areas where authorized entrants are working;

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations were conducted by testing conditions in the permit space to determine if Railcar TILX 150459 entry conditions were acceptable for cleaning technicians to enter the confined space containing unknown residual amount of molten sulfur, which produce hydrogen sulfide and carbon monoxide gases.

Conduct atmospheric testing in accordance with 1910.146 App. B.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(5)(ii): Test or monitor the permit space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations;

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations conducted by testing or monitoring the permit space as necessary for Railcar TILX 150459 to determine if acceptable entry conditions for cleaning technicians were being maintained during the course of entry operations of the confined space containing unknown residual amount of molten sulfur, which produce hydrogen sulfide and carbon monoxide gases.

Conduct atmospheric testing in accordance with 1910.146 App. B.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(4): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the authorized entrants within the permit space, by name or by such other means (for example, through the use of rosters or tracking systems) as will enable the attendant to determine quickly and accurately, for the duration of the permit, which authorized entrants are inside the permit space;

NOTE: This requirement may be met by inserting a reference on the entry permit as to the means used, such as a roster or tracking system, to keep track of the authorized entrants within the permit space.

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the authorized entrants within the permit space by name or by such other means; entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Proposed Penalty:	\$6,300.00

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(5): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the personnel, by name, currently serving as attendants:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the personnel, by name, currently serving as attendants: entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(6): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance with 29 CFR 1910.146 and authorized entry to a permit space did not identify the individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry into railcars for assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
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Safety Order 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.146(f)(10): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the results of initial and periodic tests performed under paragraph (d)(5) of this section, accompanied by the names or initials of the testers and by an indication of when the tests were performed:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the results of initial and periodic tests performed under 29 CFR 1910.146(d)(5), accompanied by the names or initials of the tester as required for assigned tasks that included entry into railcars for the purpose of inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(13): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment, to be provided for compliance with this section:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment for entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(g)(3): The training shall establish employee proficiency in the duties required by this section and shall introduce new or revised procedures, as necessary, for compliance with this section:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not provide training that established employee proficiency in duties required by 29 CFR 1910.146 (permit required confined spaces), and did not introduce new or revised procedures, as necessary, for compliance in hazards associated with a permit-required confined space entry into a railcar with molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases before they were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Whenever employees are introduced to hazardous chemicals within a railcar, before entry they should be trained on things such as, but not limited to, the safety data sheet, PPE requirements, atmospheric testing requirements, exposure consequences, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(h)(1): The employer shall ensure that all authorized entrants know the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that all authorized entrants knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 11 Type of Violation: **Serious**

29 CFR 1910.146(i)(1): The employer shall ensure that each attendant knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each attendant knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

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Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 12 Type of Violation: **Serious**

29 CFR 1910.146(i)(2): The employer shall ensure that each attendant is aware of possible behavioral effects of hazard exposure in authorized entrants:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each attendant was aware of possible behavioral effects of hazard exposure for authorized entrants to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

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Safety Order 1 Item 13 Type of Violation: **Serious**

29 CFR 1910.146(i)(4): The employer shall ensure that each attendant remains outside the permit space during entry operations until relieved by another attendant:

NOTE: When the employer's permit entry program allows attendant entry for rescue, attendants may enter a permit space to attempt a rescue if they have been trained and equipped for rescue operations as required by paragraph (k)(1) of this section and if they have been relieved as required by paragraph (i)(4) of this section.

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, the employer did not ensure that the authorized attendant, for Railcar TILX 150456, was equipped with non-entry rescue equipment prior to the authorized entrant making entry.

Provide non-entry rescue equipment for authorized attendants and entrants.

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Safety Order 1 Item 14 Type of Violation: **Serious**

29 CFR 1910.146(i)(6): The employer shall ensure that each attendant monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space and orders the authorized entrants to evacuate the permit space immediately under any of the following conditions:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, the employer did not ensure that the authorized attendant, for Railcar TILX 150456, monitored the permit-required confined space from outside of the space and utilized non-entry rescue procedures.

Provide non-entry rescue equipment for authorized attendants and entrants.

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Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 15 Type of Violation: **Serious**

29 CFR 1910.146(j)(1): The employer shall ensure that each entry supervisor knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each entry supervisor knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

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Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 16 Type of Violation: **Serious**

29 CFR 1910.146(j)(2): The employer shall ensure that each entry supervisor verifies, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each entry supervisor verified, by checking that the appropriate entries had been made on the permit, that all tests specified by the permit had been conducted and that all procedures and equipment specified by the permit were in place before endorsing the permit and allowing entry to begin on Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, resulting in one employee loss of life and one employee reported to have lifelong disability.

Mandate entry supervisors work with the crews to make sure procedural steps are being taken correctly before endorsing permits.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	November 16, 2022
Proposed Penalty:	\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 17 Type of Violation: **Serious**

29 CFR 1910.146(k)(3)(i): Each authorized entrant shall 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 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 is the safest and most effective alternative:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, each authorized entrant did not use a chest or full body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, or above the entrant's head when tasked with cleaning Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases resulting in one employee loss of life and one employee reported to have lifelong disability.

Provide non-entry rescue equipment for authorized attendants and entrants.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	November 16, 2022
Proposed Penalty:	\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 18 Type of Violation: **Serious**

29 CFR 1910.146(k)(4): If an injured entrant is exposed to a substance for which a Material Safety Data Sheet (MSDS) or other similar written information is required to be kept at the worksite, that MSDS or written information shall be made available to the medical facility treating the exposed entrant.


Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, Material Safety Data Sheets or other similar written information required to be kept at the worksite were not made available to the medical facility treating entrants exposed to a hazardous substance when tasked with cleaning Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases resulting in one employee loss of life and one employee reported to have lifelong disability.

In an incident of chemical overexposure, medical facilities need accurate information as quickly as possible. Know what railcars are being entered on what days and train everyone to know the hazards associated with the permit entry.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00


Jameson Berry
Director of General Industry

Indiana Department of Labor

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



INVOICE/DEBT COLLECTION NOTICE

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501
Issuance Date: 09/30/2022

Summary of Penalties for Inspection Number: 1588469

Safety Order 1 Item 1, Serious	\$6,300.00
Safety Order 1 Item 2, Serious	\$6,300.00
Safety Order 1 Item 3, Serious	\$6,300.00
Safety Order 1 Item 4, Serious	\$6,300.00
Safety Order 1 Item 5, Serious	\$6,300.00
Safety Order 1 Item 6, Serious	\$6,300.00
Safety Order 1 Item 7, Serious	\$6,300.00
Safety Order 1 Item 8, Serious	\$6,300.00
Safety Order 1 Item 9a, Serious	\$6,300.00
Safety Order 1 Item 9b, Serious	\$0.00
Safety Order 1 Item 10, Serious	\$6,300.00
Safety Order 1 Item 11, Serious	\$6,300.00
Safety Order 1 Item 12, Serious	\$6,300.00
Safety Order 1 Item 13, Serious	\$6,300.00
Safety Order 1 Item 14, Serious	\$6,300.00
Safety Order 1 Item 15, Serious	\$6,300.00
Safety Order 1 Item 16, Serious	\$6,300.00
Safety Order 1 Item 17, Serious	\$6,300.00
Safety Order 1 Item 18, Serious	\$6,300.00

TOTAL PROPOSED PENALTIES: \$113,400.00


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
Director of General Industry

9/30/2022

Date

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE IOSHA BOARD OF
SAFETY REVIEW

FILED

JUN 18 2024

Indiana Board of
Safety Review

IN THE MATTER OF THE)
COMMISSIONER OF LABOR,)
)
Complainant,)
)
v.)
)
EAGLE RAILCAR SERVICES -)
WASHINGTON, IN LLC)
AND ITS SUCCESSORS,)
)
Respondent.)

CASE DOCKET NO. 22-040


ADMINISTRATIVE CAUSE NO.
DOL-2211-002420

FINAL ORDER

The parties to the above-referenced proceeding, through their duly authorized representatives, have filed with the Board their Agreed Entry. The Board, being duly advised, now accepts the Respondent's withdrawal of its Notice of Contest, and adopts the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, as its final order in this matter.

IT IS ORDERED that the Respondent's withdrawal of its Notice of Contest is accepted and the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, is adopted as a final order.

Dated: 06/18/2024



Danny Deighton, Chairman

Copies to:

J. Anthony Hardman
General Counsel
Department of Labor
402 W. Washington St., Rm. W195
Indianapolis, IN 46204

Marc Walraven
P.O. Box 872
Eastland, TX 76448

Indiana Office of Administrative Law Proceedings
100 N. Senate Avenue, Rm. N802
Indianapolis, IN 46204



Filed April 29, 2024

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.)
)
EAGLE RAILCAR SERVICES, LLC)
AND ITS SUCCESSORS,)
)
Respondent.)

**OALP CASE NO. DOL-2211-002420
BSR DOCKET NO. 22-040**

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor (hereinafter “Complainant”) and Eagle Railcar Services, LLC (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 April 1, 2022, through September 23, 2022, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent’s worksite located at 1723 W. Walnut St., Washington, Indiana 47501.

2. On September 30, 2022, Complainant issued a Safety Order and Notification of Penalty (hereinafter “Safety Order”) resulting from Indiana Department of Labor Inspection No. 1588469 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 October 24, 2022, Respondent duly and timely petitioned for review of the Safety Order.

PART II.

4. The Safety Order consists of Safety Order 1, Item Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9a, 9b, 10, 11, 12, 13, 14, 15, 16, 17, and 18.

5. Safety Order 1, Item 1 alleges a “Serious” violation of 29 CFR 1910.146(d)(2) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

6. Safety Order 1, Item 2 alleges a “Serious” violation of 29 CFR 1910.146(d)(5)(i) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

7. Safety Order 1, Item 3 alleges a “Serious” violation of 29 CFR 1910.146(d)(5)(ii) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

8. Safety Order 1, Item 4 alleges a “Serious” violation of 29 CFR 1910.146(f)(4) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

9. Safety Order 1, Item 5 alleges a “Serious” violation of 29 CFR 1910.146(f)(5) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

10. Safety Order 1, Item 6 alleges a “Serious” violation of 29 CFR 1910.146(f)(6) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

11. Safety Order 1, Item 7 alleges a “Serious” violation of 29 CFR 1910.146(f)(10) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

12. Safety Order 1, Item 8 alleges a “Serious” violation of 29 CFR 1910.146(f)(13) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

13. Safety Order 1, Item 9a alleges a “Serious” violation of 29 CFR 1910.146(g)(1) and assesses a shared penalty, grouped with Item 9b, of Six Thousand Three Hundred Dollars

(\$6,300).

14. Safety Order 1, Item 9b alleges a “Serious” violation of 29 CFR 1910.146(g)(3) and assesses no additional penalty to what is assessed in Item 9a.

15. Safety Order 1, Item 10 alleges a “Serious” violation of 29 CFR 1910.146(h)(1) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

16. Safety Order 1, Item 11 alleges a “Serious” violation of 29 CFR 1910.146(i)(1) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

17. Safety Order 1, Item 12 alleges a “Serious” violation of 29 CFR 1910.146(i)(2) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

18. Safety Order 1, Item 13 alleges a “Serious” violation of 29 CFR 1910.146(i)(4) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

19. Safety Order 1, Item 14 alleges a “Serious” violation of 29 CFR 1910.146(i)(6) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

20. Safety Order 1, Item 15 alleges a “Serious” violation of 29 CFR 1910.146(j)(1) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

21. Safety Order 1, Item 16 alleges a “Serious” violation of 29 CFR 1910.146(j)(2) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

22. Safety Order 1, Item 17 alleges a “Serious” violation of 29 CFR 1910.146(k)(3)(i) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

23. Safety Order 1, Item 18 alleges a “Serious” violation of 29 CFR 1910.146(k)(4) and assesses a penalty of Six Thousand Three Hundred Dollars (\$6,300).

24. The total assessed penalty for Safety Order 1 is One Hundred Thirteen Thousand Four Hundred Dollars (\$113,400).

PART III.

25. The Safety Order is hereby amended as follows.

26. Safety Order 1, Item 1 is deleted in its entirety.

27. Safety Order 1, Item 2 is deleted in its entirety.

28. Safety Order 1, Item 3 is deleted in its entirety.

29. Safety Order 1, Item 4 is upheld, but grouped with Items 5-8, re-classified to “NonSerious,” and retains the penalty originally cited, now shared with the group.

30. Safety Order 1, Item 5 is upheld, but grouped with Items 4 and 6-8, re-classified to “NonSerious,” and assess no additional penalty than what is retained for Item 4.

31. Safety Order 1, Item 6 is upheld, but grouped with Items 4-5 and 7-8, re-classified to “NonSerious,” and assess no additional penalty than what is retained for Item 4.

32. Safety Order 1, Item 7 is upheld, but grouped with Items 4-6 and 8, re-classified to “NonSerious,” and assess no additional penalty than what is retained for Item 4.

33. Safety Order 1, Item 8 is upheld, but grouped with Items 4-7, re-classified to “NonSerious,” and assess no additional penalty than what is retained for Item 4.

34. Safety Order 1, Item 9a is upheld as a violation of 29 CFR 1910.146(g)(4), and grouped with Items 9b, 10, 11, and 15; re-classified to “NonSerious”; and retains the penalty originally cited, now shared with the group.

35. Safety Order 1, Item 9b is upheld, but grouped with Items 9a, 10, 11, and 15; re-classified to “NonSerious”; and assess no additional penalty than what is retained for Item 9a.

36. Safety Order 1, Item 10 is upheld, but grouped with Items 9a, 9b, 11, and 15; re-classified to “NonSerious”; and assess no additional penalty than what is retained for Item 9a.

37. Safety Order 1, Item 11 is upheld, but grouped with Items 9a, 9b, 10, and 15; re-

classified to "NonSerious"; and assess no additional penalty than what is retained for Item 9a.

38. Safety Order 1, Item 12 is deleted in its entirety.

39. Safety Order 1, Item 13 is deleted in its entirety.

40. Safety Order 1, Item 14 is deleted in its entirety.

41. Safety Order 1, Item 15 is upheld, but grouped with Items 9a, 9b, 10, and 11; re-classified to "NonSerious"; and assess no additional penalty than what is retained for Item 9a.

42. Safety Order 1, Item 16 is deleted in its entirety.

43. Safety Order 1, Item 17 is upheld, but reclassified to "NonSerious" and retains the penalty originally cited.

44. Safety Order 1, Item 18 is upheld, but reclassified to "NonSerious" and the penalty is reduced by 50% to \$3,150.

45. The AGREED total penalty for all violations and all subparts thereunder, subject to this Agreed Entry, is Twenty-Two Thousand Fifty Dollars (\$22,050).

46. All deleted citations were due to lack of evidence to support it or duplicity.

47. In consideration for reclassification and grouping of the citations pursuant to this agreement, Respondent agrees to complete the following enhanced abatement and provide Complainant with proof of each within sixty (60) days of the issuance of a Final Order in this matter:

- a. Respondent will modify its rules and procedures for confined space entry to include each entrant, attendant, and supervisor required to 1) attend a safety briefing for the entry, 2) complete a job safety analysis for the entry, 3) all parties witness the atmospheric testing taken and recorded on the permit, and 4) all parties then sign the permit.

- b. Respondent will implement a program of intentional and documented regular compliance safety audits of each employee, which verifies each employee's compliance with all OSHA safety requirements applicable to the jobs to which they are assigned.
- c. Respondent will place multiple copies of an SDS for any chemical or material present in a confined space being entered, and train employees, in case of an emergency, to proactively distribute copies of the SDS to emergency responders including EMS, fire, and police as well as assure a copy gets to any and all facilities who may be treating injured employees.
- d. Respondent will modify its on-the-job training program for new employees to ensure that it is more structured and intentional. The training program must include a provision for the demonstration and documentation of skills learned by the trainee.
- e. Respondent will complete the evaluation of its confined space entry rescue program and procedures by a qualified Certified Industrial Hygienist with experience in railcar or similar tank rescue, as specified in its agreement with Federal OSHA's Houston South Area Office. Complainant agrees to collaborate, to the extent appropriate, with the Federal OSHA Houston South Area Office regarding the outcome of the evaluation for abatement of Safety Order 1, Item 17 of the Safety Order that was contested in this matter.
- f. Respondent will implement all abatement and enhanced abatement under this Agreed Entry across all Eagle Railcar facilities nationwide.

48. 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”).

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

50. 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.

51. Respondent hereby withdraws its petition for review previously filed in this matter, subject to the terms of this agreed entry.

PART IV.

52. 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.

53. Except for this agreement, 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.

54. 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.

55. 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 29th day of April 2024.


EAGLE RAILCAR SERVICES, LLC

By: Marc Walraven

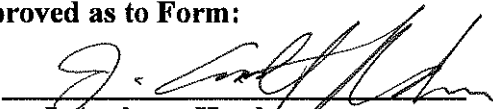
Printed: Marc Walraven

Title: President

COMMISSIONER OF LABOR

By: 
Jameson Berry,
Director of Health Compliance,
IOSHA

Approved as to Form:

By: 
J. Anthony Hardman,
Counsel for Complainant

Indiana Department of Labor

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



Safety Order and Notification of Penalty

To:
Eagle Railcar Services - Washington, IN LLC
and its successors
1723 West Walnut Street
Washington, IN 47501

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Inspection Site:
1723 West Walnut Street
Washington, IN 47501

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

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 09/30/2022. The Informal Conference is scheduled for (date/time) _____.

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: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(2): Identify and evaluate the hazards of permit spaces before employees enter them:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not identify and evaluate the hazards of permit spaces before employees entered Railcar TILX 150459 for the assigned tasks that included inspection, cleaning, etc. with unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases.

Identify all railcars to be entered before each shift and discuss identified hazards with exposed employees prior to start of job task. Recommended hazards to include, but not limited to, safety data sheet information, bump testing pumps, obtaining and proper use of necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(5)(i): Test conditions in the permit space to determine if acceptable entry conditions exist before entry is authorized to begin, except that, if isolation of the space is infeasible because the space is large or is part of a continuous system (such as a sewer), pre-entry testing shall be performed to the extent feasible before entry is authorized and, if entry is authorized, entry conditions shall be continuously monitored in the areas where authorized entrants are working;

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations were conducted by testing conditions in the permit space to determine if Railcar TILX 150459 entry conditions were acceptable for cleaning technicians to enter the confined space containing unknown residual amount of molten sulfur, which produce hydrogen sulfide and carbon monoxide gases.

Conduct atmospheric testing in accordance with 1910.146 App. B.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(d)(5)(ii): Test or monitor the permit space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations;

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations conducted by testing or monitoring the permit space as necessary for Railcar TILX 150459 to determine if acceptable entry conditions for cleaning technicians were being maintained during the course of entry operations of the confined space containing unknown residual amount of molten sulfur, which produce hydrogen sulfide and carbon monoxide gases.

Conduct atmospheric testing in accordance with 1910.146 App. B.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(4): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the authorized entrants within the permit space, by name or by such other means (for example, through the use of rosters or tracking systems) as will enable the attendant to determine quickly and accurately, for the duration of the permit, which authorized entrants are inside the permit space;

NOTE: This requirement may be met by inserting a reference on the entry permit as to the means used, such as a roster or tracking system, to keep track of the authorized entrants within the permit space.

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the authorized entrants within the permit space by name or by such other means; entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

November 16, 2022

Proposed Penalty:

\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(5): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the personnel, by name, currently serving as attendants:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the personnel, by name, currently serving as attendants: entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(6): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance with 29 CFR 1910.146 and authorized entry to a permit space did not identify the individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry into railcars for assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(10): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify the results of initial and periodic tests performed under paragraph (d)(5) of this section, accompanied by the names or initials of the testers and by an indication of when the tests were performed:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify the results of initial and periodic tests performed under 29 CFR 1910.146(d)(5), accompanied by the names or initials of the tester as required for assigned tasks that included entry into railcars for the purpose of inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	November 16, 2022
Proposed Penalty:	\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(f)(13): The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment, to be provided for compliance with this section:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - The entry permits documented compliance and authorized entry to a permit space did not identify equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment for entry into railcars for the assigned tasks that included inspection, cleaning, service and/or repair, etc. with potential to expose employees to hazardous materials.

Review permits annually and regularly enforce the importance of entry permits and to fill them out completely.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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 9 a Type of Violation: **Serious**

29 CFR 1910.146(g)(1): The employer shall provide training so that all employees whose work is regulated by this section acquire the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this section.

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, the employer did not provide training so that all employees whose work was regulated by 29 CFR 1910.146 (permit required confined spaces) acquired the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under 29 CFR 1910.146 to ensure that the Authorized Supervisor, Safety Attendant, and the Confined Space Entrant each had the understanding, knowledge, and skills necessary to perform assigned task(s) associated with Railcar TILX 150459 for the assigned tasks that included inspection, cleaning, etc. with unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases.

Whenever employees are introduced to hazardous chemicals within a railcar, before entry they should be trained on things such as, but not limited to, the safety data sheet, PPE requirements, atmospheric testing requirements, exposure consequences, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(g)(3): The training shall establish employee proficiency in the duties required by this section and shall introduce new or revised procedures, as necessary, for compliance with this section:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not provide training that established employee proficiency in duties required by 29 CFR 1910.146 (permit required confined spaces), and did not introduce new or revised procedures, as necessary, for compliance in hazards associated with a permit-required confined space entry into a railcar with molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases before they were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Whenever employees are introduced to hazardous chemicals within a railcar, before entry they should be trained on things such as, but not limited to, the safety data sheet, PPE requirements, atmospheric testing requirements, exposure consequences, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

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

29 CFR 1910.146(h)(1): The employer shall ensure that all authorized entrants know the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that all authorized entrants knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 11 Type of Violation: **Serious**

29 CFR 1910.146(i)(1): The employer shall ensure that each attendant knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each attendant knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 12 Type of Violation: **Serious**

29 CFR 1910.146(i)(2): The employer shall ensure that each attendant is aware of possible behavioral effects of hazard exposure in authorized entrants:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each attendant was aware of possible behavioral effects of hazard exposure for authorized entrants to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 13 Type of Violation: **Serious**

29 CFR 1910.146(i)(4): The employer shall ensure that each attendant remains outside the permit space during entry operations until relieved by another attendant:

NOTE: When the employer's permit entry program allows attendant entry for rescue, attendants may enter a permit space to attempt a rescue if they have been trained and equipped for rescue operations as required by paragraph (k)(1) of this section and if they have been relieved as required by paragraph (i)(4) of this section.

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, the employer did not ensure that the authorized attendant, for Railcar TILX 150456, was equipped with non-entry rescue equipment prior to the authorized entrant making entry.

Provide non-entry rescue equipment for authorized attendants and entrants.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 14 Type of Violation: **Serious**

29 CFR 1910.146(i)(6): The employer shall ensure that each attendant monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space and orders the authorized entrants to evacuate the permit space immediately under any of the following conditions:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4/1/2022, the employer did not ensure that the authorized attendant, for Railcar TILX 150456, monitored the permit-required confined space from outside of the space and utilized non-entry rescue procedures.

Provide non-entry rescue equipment for authorized attendants and entrants.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 15 Type of Violation: **Serious**

29 CFR 1910.146(j)(1): The employer shall ensure that each entry supervisor knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each entry supervisor knew the hazards that could be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure to molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, before employees were tasked with cleaning Railcar TILX 150459, resulting in one employee loss of life and one employee reported to have lifelong disability.

Identify all railcars to be entered in a given day and go through the hazards with the crew before any work is started. Things to go over should include such as, but not limited to, safety data sheet information, bump testing pumps, obtain necessary P.P.E., understand the repercussions of exposure to any given hazardous atmosphere, etc.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 16 Type of Violation: **Serious**

29 CFR 1910.146(j)(2): The employer shall ensure that each entry supervisor verifies, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, the employer did not ensure that each entry supervisor verified, by checking that the appropriate entries had been made on the permit, that all tests specified by the permit had been conducted and that all procedures and equipment specified by the permit were in place before endorsing the permit and allowing entry to begin on Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases, resulting in one employee loss of life and one employee reported to have lifelong disability.

Mandate entry supervisors work with the crews to make sure procedural steps are being taken correctly before endorsing permits.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 17 Type of Violation: **Serious**

29 CFR 1910.146(k)(3)(i): Each authorized entrant shall 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 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 is the safest and most effective alternative:

Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, each authorized entrant did not use a chest or full body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, or above the entrant's head when tasked with cleaning Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases resulting in one employee loss of life and one employee reported to have lifelong disability.

Provide non-entry rescue equipment for authorized attendants and entrants.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1588469
CSHO ID: Q9916
Optional Report No.:
Inspection Date(s): 04/01/2022 - 09/23/2022
Issuance Date: 09/30/2022

Safety Order and Notification of Penalty

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501

Safety Order 1 Item 18 Type of Violation: **Serious**

29 CFR 1910.146(k)(4): If an injured entrant is exposed to a substance for which a Material Safety Data Sheet (MSDS) or other similar written information is required to be kept at the worksite, that MSDS or written information shall be made available to the medical facility treating the exposed entrant.

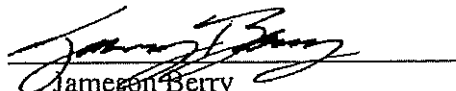
Eagle Railcar Services - Washington LLC, 1723 West Walnut Street, Washington, IN 47501 - On or about 4.1.2022, Material Safety Data Sheets or other similar written information required to be kept at the worksite were not made available to the medical facility treating entrants exposed to a hazardous substance when tasked with cleaning Railcar TILX 150459, which contained an unknown residual amount of molten sulfur, which produces atmospheric hazards associated with hydrogen sulfide and carbon monoxide gases resulting in one employee loss of life and one employee reported to have lifelong disability.

In an incident of chemical overexposure, medical facilities need accurate information as quickly as possible. Know what railcars are being entered on what days and train everyone to know the hazards associated with the permit entry.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

November 16, 2022
\$6,300.00


Jameson Berry
Director of General Industry

Indiana Department of Labor

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



INVOICE/DEBT COLLECTION NOTICE

Company Name: Eagle Railcar Services - Washington, IN LLC
Inspection Site: 1723 West Walnut Street, Washington, IN 47501
Issuance Date: 09/30/2022

Summary of Penalties for Inspection Number: 1588469

Safety Order 1 Item 1, Serious	\$6,300.00
Safety Order 1 Item 2, Serious	\$6,300.00
Safety Order 1 Item 3, Serious	\$6,300.00
Safety Order 1 Item 4, Serious	\$6,300.00
Safety Order 1 Item 5, Serious	\$6,300.00
Safety Order 1 Item 6, Serious	\$6,300.00
Safety Order 1 Item 7, Serious	\$6,300.00
Safety Order 1 Item 8, Serious	\$6,300.00
Safety Order 1 Item 9a, Serious	\$6,300.00
Safety Order 1 Item 9b, Serious	\$0.00
Safety Order 1 Item 10, Serious	\$6,300.00
Safety Order 1 Item 11, Serious	\$6,300.00
Safety Order 1 Item 12, Serious	\$6,300.00
Safety Order 1 Item 13, Serious	\$6,300.00
Safety Order 1 Item 14, Serious	\$6,300.00
Safety Order 1 Item 15, Serious	\$6,300.00
Safety Order 1 Item 16, Serious	\$6,300.00
Safety Order 1 Item 17, Serious	\$6,300.00
Safety Order 1 Item 18, Serious	\$6,300.00

TOTAL PROPOSED PENALTIES: **\$113,400.00**


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
Director of General Industry

9/30/2022

Date