



Notice of Violation and Order to Comply

To:
Mayor
City of Buffalo
65 Niagara Square, City Hall
Buffalo, NY 14202

Inspection Number: 1079436
Inspection Date(s): 06/30/2015-01/15/2016
Issuance Date: 01/27/2016
CSHO ID: Y7970

Inspection Site:
Buffalo City FD Eng 21 Ladder 6 Rescue 1
210 Glenwood Ave
Buffalo, NY 14208

The violation(s) described in this Notice of Violation and Order to Comply is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Notice of Violation and Order to Comply (this Notice) describes violations of the Public Employee Safety and Health Act of 1980. You must abate the violations cited in this Notice by the dates listed below. An employer who wishes to file an appeal of the violation(s) cited, including but not limited to appeals which raise issues concerning the application of the cited standard(s) to the employer or to the violation(s) cited, as well as issues concerning the appropriateness of the abatement period(s), must do so within 60 days of the issuance date of this Notice by filing a petition with the Industrial Board of Appeals. Appeals of the violation(s) cited, including but not limited to appeals raising the issues listed above, will be considered time barred if not filed within the 60 day period. The details of such appeal process are set forth at 12 NYCRR Part 65 et seq and Section 101 of the Labor Law. Additional information may also be obtained from the Industrial Board of Appeals at their website: www.labor.state.ny.us/iba.

Posting - The law requires that a copy of this Notice be posted immediately in a prominent place at or near the location of the violation(s) cited below. This Notice must remain posted until the violation(s) cited below have been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer.

Penalty Assessment - An employer that fails to correct a violation by its abatement date is subject to a PER DAY penalty assessment. We will assess a penalty of up to \$50 per day for each non-serious violation, and up to \$200 per day for each serious violation, until the violations are corrected. The penalty assessed for each violation will appear in the Failure to Abate notice.

Informal Conference - If an informal conference is requested, it must be made to the nearest PESH district office by telephone or letter, within 20 working days from the date of issuance given on this Notice.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far.

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 PESH district office at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (P907) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees - An employee (or an authorized employee representative) may object to the abatement date set for a violation if the employee believes the date to be unreasonable. The objection must be filed at the nearest PESH district office within fifteen (15) working days (excluding weekends and State holidays) from the posting of this Notice.



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 1

Type of Violation: **Serious**

12 NYCRR Part 800.6(e): The employer did not develop and implement a written Workplace Violence Prevention Policy statement.

a) The employers written policy statement was not developed with the help of the authorized employee representative, was not updated to indicate a current contact person who will help with the completion of the incident reports and the policy statement was not posted in a prominent location at each Buffalo Fire Department workplace.

The employer must develop a Workplace Violence Prevention Program (WVPP) policy statement that briefly describes the employer's workplace violence prevention policy and incident alert notification procedures for employees to follow in the event of the event of a workplace violence incident; the WVPP policy statement must be displayed where notices to employees are normally posted in each workplace.

Employees may become exposed to workplace hazards including, but not limited to: physical assault, threats or intimidation, menacing, harassment, stalking, etc. while performing regular work duties.

Date by Which Violation Must Be Abated:

March 16, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 2

Type of Violation: **Serious**

12 NYCRR Part 800.6(f): The employer did not evaluate the workplace to determine the presence of factors which may place employees at risk of workplace violence:

a) The employer did not perform a risk evaluation of the workplace to determine the presence of factors which may place employees at risk of workplace violence.

The evaluation must include an examination of records compiled, under Labor Law Section 27-a, to identify patterns of injuries in particular areas of the workplace or incidents which involve specific operations or specific individuals and any other records that concern workplace violence incidents in order to identify patterns in the type and cause of injuries/illnesses; an assessment of relevant policies, work practices and procedures that may impact the risk of workplace violence; and an examination of the physical workplace.

The employer must include the participation of authorized employee representatives, during the evaluation of the physical workplace, to determine the presence of factors which may place employees at risk of workplace violence.

Typical workplace factors which might place an employee at risk for workplace violence include, but are not limited to:

1. Working in public settings
2. Working late night or early morning hours
3. Exchanging money with the public
4. Working alone or in small numbers
5. Working in a location with uncontrolled public access to the workplace
6. Areas of previous security problems

PESH Consultation assistance program information and sample compliance documentation was provided to the employer.

Date by Which Violation Must Be Abated:

April 06, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 3

Type of Violation: **Serious**

800 12 NYCRR Part 800.6(g)(1): The employer with 20 or more full time permanent employees did not develop a written workplace violence prevention program with the participation of authorized employee representative(s).

(a) Buffalo City Fire Department failed to create and implement a written Workplace Violence Prevention Program with the participation of the authorized employee representative.

A compliant program must include:

1. A list of the risk factors identified in the workplace examination;
2. The methods the employer will use to prevent the incidence of workplace violence;
3. A hierarchy of controls to which the program shall adhere as follows: engineering controls, work practice controls, and finally personal protective equipment;
4. The methods and means by which the employer shall address each specific hazard identified in the workplace evaluation;
5. A system designed and implemented by the employer to report any workplace violence incidents that occur in the workplace. (The reports must be in writing and maintained for the annual program review);
6. A written outline or lesson plan for employee training;
7. A plan for program review and update on at least an annual basis. (Such review and update shall set forth any mitigating steps taken in response to any incident of workplace violence.)

Confidential information for security reasons shall not be disclosed.

Date by Which Violation Must Be Abated:

March 16, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 4

Type of Violation: **Serious**

12 NYCRR Part 800.6(h): The employer failed to provide information and training on the risks of workplace violence in the workplace.

a) The employer failed to develop and implement a program of employee training on the prevention of violence in the workplace. In accordance with 12 NYCRR 800.6(h)(1), at a minimum, the training must include the following:

1. Employers must inform employees of the requirements of 12 NYCRR 800.6 and the risk factors in their workplace that were identified in the risk evaluation and determination.
2. Employers must inform employees of the measures that employees can take to protect themselves from the identified risks including specific procedures that the employer has implemented to protect employees such as incident alert and notification procedures, appropriate work practices, emergency procedures, and use of security alarms and other devices.
3. The employer must inform employees of the location of the written Workplace Violence Prevention Program and how to obtain a copy. The program must be made available in the workplace for reference by employees, authorized employee representatives, and the Commissioner during the regularly scheduled shift.

PESH Consultation assistance program information was provided to the employer.

Date by Which Violation Must Be Abated:

June 09, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 5

Type of Violation: **Serious**

12 NYCRR Part 800.6(i): The employer failed to establish and maintain a recordkeeping system for reporting workplace violence incidents.

a) The employer did not develop and implement a system for recording and reporting incidents of workplace violence. Employees involved in the violent domestic dispute at 210 Glenwood Ave. on April 24, 2015 did not complete a compliant workplace violence incident report. A compliant report must at a minimum, contain the following information related to the incident being reported:

1. Workplace location where incident or threat occurred
2. Time of day/shift when incident occurred
3. A detailed description of the incident, including events leading up to the incident and how the incident ended
4. Names and job titles of involved employees
5. Name or other identifier of other individual(s) involved
6. Nature and extent of injuries arising from the incident
7. Name of witnesses

A sample incident report form was provided to the employer.

Date by Which Violation Must Be Abated:

March 16, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 6

Type of Violation: **Serious**

29 CFR 1910.120(q)(2): The employer did not develop an emergency response plan for emergencies which addressed the following minimum requirements of this standard: 1910.120(q)(2)(i) through 1910.120(q)(2)(xii):

- (A) Pre-emergency planning and coordination with outside parties.
- (B) Personnel roles, lines of authority, training, and communication.
- (C) Emergency recognition and prevention.
- (D) Safe distances and places of refuge.
- (E) Site security and control.
- (F) Evacuation routes and procedures.
- (G) Decontamination procedures.
- (H) Emergency medical treatment and first aid.
- (I) Emergency alerting and response procedures.
- (J) Critique of response and follow up.
- (K) Personal Protective Equipment and emergency equipment.

a) Buffalo Fire Department's Hazardous Materials Emergency Response plan did not address decontamination of hazardous materials, evacuation routes from areas within their jurisdiction and how the department will critique training and actual incidents. Commercial transportation of hazardous materials and the presence of local industrial sites could potentially result in a release of a hazardous substance causing firefighters, HAZMAT team members and chiefs to become exposed.

Date by Which Violation Must Be Abated:

March 16, 2016

Citation 1 Item 7

Type of Violation: **Serious**

29 CFR 1910.120(q)(6)(v): Incident commanders did not receive at least 24 hours of training equal to the first responder operations level and in addition have competency in the areas outline in 29 CFR 1910.120(q)(6)(v)(A) through (q)(6)(v)(F) and/or the employer did not so certify:

a) Buffalo Fire Department's Division and Battalion Chiefs did not receive at least 24 hours of training to the Incident Command Level as required by this standard. Buffalo Fire Department is a paid, professional fire department having an organized HAZMAT team that is used as a tactical asset under the direction of the Incident Commander. Hazardous chemicals are transported and used in various manufacturing and public facilities within the employer's fire protection jurisdiction. Employees may respond and become exposed to hazardous chemicals when performing or responding as a normal job function.

Date by Which Violation Must Be Abated:

June 09, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 8

Type of Violation: **Serious**

29 CFR 1910.120(q)(8): 29 CFR 1910.120(q)(8): Employees trained in accordance with paragraph (q)(6) of this section did not receive annual refresher training of sufficient content and duration to maintain their competencies, or did not demonstrate competency in those areas at least annually:

a) All firefighters located at 1229 Jefferson Ave. did not receive annual hazardous materials emergency response refresher training at the Operations Level or an equivalent evaluation of competency as required by this standard. Buffalo City Fire Department is a professional, paid fire department having an organized HAZMAT team that is used as a tactical asset under the direction of the Incident Commander. Hazardous chemicals are transported and used in various manufacturing facilities within the employer's fire protection jurisdiction. Employees at this location may respond and perform duties at the Operations Level and may become exposed to hazardous chemicals when performing or responding as a normal job function.

Date by Which Violation Must Be Abated:

April 27, 2016

Citation 1 Item 9

Type of Violation: **Serious**

29 CFR 1910.134(f)(2): Fit testing. The employer did not ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.

(a) All interior structural firefighters located at 1229 Jefferson Ave. were not fit tested at least annually. Fire department members are required to wear respirators (SCBA) while performing interior firefighting. This condition exposes the fire brigade members to potential hazardous atmospheres from improperly fitted respirators.

Date by Which Violation Must Be Abated:

April 27, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 10

Type of Violation: **Serious**

29 CFR 1910.134(i)(1)(ii): The employer did not ensure that compressed air used for respiration accords with the following specifications:

Compressed breathing air shall meet at least the requirements for Grade D breathing air as described in ANSI/ Compressed Gas Association Commodity Specification for Air, G-7.1-1989.

(a) The employer did not ensure that the stationary air compressor located at 195 Court St., used to refill SCBA bottles for interior structural firefighters, produces breathing air of grade D quality or better. The compressor used to supply breathing air to respirators must comply with 1910.134(I)(5) - (I)(8). This condition could inadvertently expose interior structural firefighters to toxins such as compressor oil and/ or carbon monoxide or other toxic chemicals if the compressor is not properly maintained.

Date by Which Violation Must Be Abated:

March 16, 2016

Citation 1 Item 11

Type of Violation: **Serious**

29 CFR 1910.156(c)(2): The employer did not assure that training and education is conducted frequently enough to assure that each member of the fire brigade is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger fire brigade members or other employees. All fire brigade members shall be provided with training at least annually. In addition, fire brigade members who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly.

(a) Buffalo City Fire Department, interior structural firefighters located at 1229 Jefferson Ave. did not receive annually refresher training as required by this standard. This may result in delayed or incorrect employee actions during a fire and other emergency due to lack of training.

(b) The employer did not ensure that Buffalo Fire Department Alarm Office employees were adequately trained to perform their assigned job duties so as not to endanger fire brigade members. Firefighters responding 210 Glenwood Ave. on April 24, 2015 were not notified by dispatch as to the hazards posed by a violent domestic dispute in progress. This lack of information sharing endangered responding fire brigade members when it was discovered that the house was occupied by a person, armed with a knife who was using an accelerant to set fires in the house.

(c) Interior structural firefighters located at 1229 Jefferson Ave. did not receive training on a quarterly basis. Documentation provided revealed that some firefighters missed respiratory refresher training for more than 2 years. Firefighters, assigned to use SCBA, are routinely exposed to atmospheric hazards, including imminent danger to life and health (IDLH) while fighting fires and responding to other emergencies requiring respiratory protection.

Date by Which Violation Must Be Abated:

April 27, 2016

New York State Department of Labor
Public Employee Safety and Health Bureau

Inspection Number: 1079436
Inspection Date: 06/30/2015-01/15/2016
Issuance Date: 01/27/2016
CSHO ID Y7970



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 1 Item 12

Type of Violation: **Serious**

29 CFR 1910.1030(h)(1)(i): Bloodborne Pathogens. Recordkeeping. Medical Records: The employer did not establish and maintain an accurate record for each employee with occupational exposure in accord with 29 CFR 1910.1030:

(a) Buffalo City Fire Department, having paid active fire brigade members that are expected to perform first aid and rescue operations, did not maintain an effective medical record keeping system, which is required to track the Hepatitis B vaccination status of each firefighter at 1229 Jefferson Ave. Firefighters are considered to have occupational exposure to blood and other potentially infectious materials due to their routine duties including administering first aid and performing rescue operations.

Date by Which Violation Must Be Abated:

March 16, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 2 Item 1

Type of Violation: **Repeat-Other**

801.12 NYCRR Part 801.29(a): The employer did not use an SH 900.2 Incident Report form or an equivalent form for recordable injuries and illnesses.

(a) The employer's incident report form did not contain all the information as required by the standard. Information lacking from Buffalo Fire Department's injury reports included:

1. Date employee was hired
2. What was the employee doing just before the incident occurred
3. What happened
4. Name of physician or health care professional
5. Was employee treated in an emergency room
6. Was employee hospitalized overnight
7. Case number from the log
8. Time employee began work
9. The name, title, phone number of the person taking the report

The City of Buffalo Fire Department was previously cited for a violation of this occupational safety and health standard or its equivalent standard 801.12 NYCRR Part 801.29(a), which was contained in PESH inspection number 1066514, citation number 1, item number 1 and was affirmed as a final order on 7/01/2015, with respect to a workplace located at 700 Seneca St, Buffalo NY 14210.

Date by Which Violation Must Be Abated:

March 16, 2016

Citation 2 Item 2

Type of Violation: **Non Serious**

29 CFR 1910.134(e)(7)(iii): Additional medical evaluations that complied with the requirements of 29 CFR 1910.134 were not provided when information from the respiratory protection program, including observations made during fit testing and program evaluation, indicated a need for employee reevaluation:

(a) Interior structural firefighters at 1229 Jefferson Ave. did not receive a follow-up medical evaluation within 12 months as required in the Buffalo Fire Department's Respiratory Protection Program. Interior structural firefighters are required to wear self-contained breathing apparatus (SCBA) as a function of their assigned job duties. A medical evaluation assures that employees are prescreened for medical conditions that may lead to serious health problems, such as stroke or heart attack while performing their normal job duties.

Date by Which Violation Must Be Abated:

February 09, 2016



Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 2 Item 3

Type of Violation: **Non Serious**

29 CFR 1910.156(b)(1): The employer elected to establish a fire brigade, and a statement or written policy was not maintained which establishes the existence of a fire brigade; the basic organizational structure; the type, amount and frequency of training.

(a) The employer's written Organizational Statement did not contain statements that establishes the fire brigade, the type, amount and frequency of training, the expected number of members and the functions the brigade are expected to perform. This condition could cause an unawareness with the employer regarding proper pre-planning and ensuring compliant employee training, functions and other standard requirements for firefighters.

Date by Which Violation Must Be Abated:

March 16, 2016

Citation 2 Item 4

Type of Violation: **Non Serious**

29 CFR 1910.1030(c)(1)(iv): The Exposure Control Plan was not reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

(a) Buffalo City Fire Department's written Exposure Control Plan was last revised in 1995 and is required to be reviewed at least annually. Firefighters are considered to have occupational exposure during performance of their normal duties including administering first aid and when performing rescue operations. The plan review is intended to update department policies including but not limited to:

Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure. An employer, who is required to establish an Exposure Control Plan must solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and must document the solicitation in the Exposure Control Plan.

Date by Which Violation Must Be Abated:

March 16, 2016

New York State Department of Labor
Public Employee Safety and Health Bureau

Inspection Number: 1079436
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Notice of Violation and Order to Comply

Establishment: Buffalo City FD Eng 21 Ladder 6 Rescue 1
Inspection Site: 210 Glenwood Ave, Buffalo, NY 14208

Citation 2 Item 5

Type of Violation: **Non Serious**

29 CFR 1910.1030(h)(2)(i): The employer's records for annual bloodborne pathogen training did not include all of the elements required by (h)(2)(i)(A)-(D) of 29 CFR 1910.1030:

(a) Buffalo City Fire Department did not establish an accurate system of maintaining and accessing training records. Active fire fighters are considered to have occupational exposure to blood and other potentially infectious body materials due to their routine job duties of administering first aid and performing rescue operations. Not maintaining an accurate training record system provides opportunity for some employees to miss their annual refresher training.

A compliant training record will contain the following:

- (A) The dates of the training session
- (B) The contents or a summary of the training session
- (C) The names and qualifications of the persons conducting the training
- (D) The names and job titles of all persons attending the training

Date by Which Violation Must Be Abated:

March 16, 2016

A handwritten signature in black ink, appearing to read "Darren Mrak".

Darren Mrak
Supervising Safety and Health Inspector