

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Syracuse Area Office  
3300 Vickery Road  
North Syracuse, NY 13212  
Phone: (315)451-0808 FAX: (315)451-1351  
OSHA Website Address: <http://www.osha.gov>



## Citation and Notification of Penalty

**To:** MATT BREWING CO., INC. dba THE F X MATT BREWING CO.  
and its successors  
Nicholas Matt, President  
811 Edward Street  
Utica, NY 13502

**Inspection Number:** 310755665  
**Inspection Date(s):** 05/30/2008- 07/28/2008  
**Issuance Date:** 07/31/2008

**Inspection Site:**  
811 Edward Street  
Utica, NY 13502

*The violation(s) described in this Citation 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.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "US DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

**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 U.S. Department of Labor Area Office at the address shown above.

**Employer Rights and Responsibilities** - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**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 U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

**Internet Posting Notice:** You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at "<http://www.osha.gov>". If you have any dispute with the accuracy of the information displayed, please contact this office.



**NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 07/31/2008. The conference will be held at the OSHA office located at Syracuse Area Office, 3300 Vickery Road, North Syracuse, NY, 13212 on \_\_\_\_\_ at \_\_\_\_\_.

Employees and/or representatives of employees have a right to attend an informal conference.



**Citation and Notification of Penalty**

Company Name: MATT BREWING CO., INC. dba THE F X MATT BREWING CO  
Inspection Site: 811 Edward Street, Utica, NY 13502

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

29 CFR 1910.157(g)(1): An educational program was not provided for all employees to familiarize them with the general principles of fire extinguisher use and the hazards involved with incipient stage fire fighting:

- a) In the facility, On or about 5/29/08: Employees were not provided with training that required them to vacate for fires greater than incipient stage fires.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	08/18/2008
Proposed Penalty:	\$ 1750.00

**Citation 1 Item 1b** Type of Violation: **Serious**

29 CFR 1910.157(g)(2): The educational program to familiarize employees with the general principles of fire extinguisher use and the hazards involved with incipient stage fire fighting was not provided to all employees upon initial employment, and at least annually thereafter:

- a) In the facility, On or about 5/29/08: Employees were not provided with yearly fire extinguisher training.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	08/18/2008
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**Citation and Notification of Penalty**

**Company Name:** MATT BREWING CO., INC. dba THE F X MATT BREWING CO  
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**Citation 1 Item 2a** Type of Violation: **Serious**

429 CFR 1910.252(a)(1)(i): When the object to be welded or cut could not be readily moved, all movable fire hazards in the vicinity were not taken to a safe place:

- a) **Second Floor Canning Area, On or about 5/29/08: Welding was performed on a canning machine without the removal of all fire hazards.**

**Abatement certification must be submitted for this item.**

Date By Which Violation Must be Abated:	08/18/2008
Proposed Penalty:	\$ 1750.00

**Citation 1 Item 2b** Type of Violation: **Serious**

29 CFR 1910.252(a)(2)(v): Where combustible materials such as paper clippings, wood shavings, or textile fibers were on the floor, the employer did not ensure that the floor was swept clean for a radius of 35 feet (10.7 m) from the cutting or welding operations:

- a) **Second Floor Canning Area, On or about 5/29/08: Welding was performed on a canning machine without the removal of cardboard material from the floor.**

**Abatement certification must be submitted for this item.**

Date By Which Violation Must be Abated:	08/18/2008
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U.S. Department of Labor  
Occupational Safety and Health Administration

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Inspection Dates: 05/30/2008-07/28/2008  
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**Citation and Notification of Penalty**

Company Name: MATT BREWING CO., INC. dba THE F X MATT BREWING CO  
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**Citation 1 Item 2c** Type of Violation: **Serious**

29 CFR 1910.252(a)(2)(vii): Where practical, combustible materials were not relocated at least 35 feet (10.7 m) from the cutting or welding operation work site :

- a) **Second Floor Canning Area, On or about 5/29/08: Welding was performed on a canning machine without the removal of cardboard material from the floor, cardboard material from storage, combustible plastic from the machine and combustible plastic in storage.**

**Abatement certification must be submitted for this item.**

**Date By Which Violation Must be Abated: 08/18/2008**

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

29 CFR 1910.252(a)(2)(iii)(A)(1): The employer did not provide fire watchers whenever welding or cutting was performed, where appreciable combustible material in building construction or contents was closer than 35 feet (10.7 m) to the point of operation:

- a) **In the facility, On or about 5/29/08: A fire watch was not maintained where welding work had been performed near combustible materials.**

**Abatement certification must be submitted for this item.**

**Date By Which Violation Must be Abated: 08/18/2008**  
**Proposed Penalty: \$ 1750.00**

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



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**Citation 1 Item 3b Type of Violation: Serious**

29 CFR 1910.252(a)(2)(xiv)(G): The employer did not ensure that where fire watchers were required, the supervisor saw that they were available at the site:

- a) **In the facility, On or about 5/29/08: A supervisor did not ensure that a fire watch was available and maintained.**

**Abatement certification must be submitted for this item.**

**Date By Which Violation Must be Abated:** 08/18/2008

**Citation 1 Item 4a Type of Violation: Serious**

29 CFR 1910.252(a)(2)(iv): Cutting or welding was permitted in areas before the areas were inspected by the individual responsible for authorizing cutting and welding operations:

- a) **In the facility, On or about 5/29/08: Welding work was performed without the supervisor inspecting the area.**

**Abatement certification must be submitted for this item.**

**Date By Which Violation Must be Abated:** 08/18/2008  
**Proposed Penalty:** \$ 1750.00

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**Citation 1 Item 4b** Type of Violation: **Serious**

29 CFR 1910.252(a)(2)(xiii): The employer did not recognize its responsibility for the safe usage of cutting or welding equipment on its property, in accordance with 29 CFR 1910.252 (a)(2)(xiii)(A) through 29 CFR 1910.252(a)(2)(xiii)(D):

- a) **In the facility, On or about 5/29/08: Procedures were not established for performing cutting and welding operations near combustibles, and the company had not designated an individual to be responsible for authorizing cutting and welding operations.**

**Abatement certification must be submitted for this item.**

**Date By Which Violation Must be Abated: 08/18/2008**

A handwritten signature in black ink, appearing to read "C. Adams", written over a horizontal line.

Christopher R. Adams, CIH, CSP  
Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.