

Michigan Department of Labor and Economic Opportunity
Michigan Occupational Safety and Health Administration (MIOSHA)

MIOSHA General Industry Safety & Health Division

530 West Allegan Street

P.O. Box 30644

Lansing, MI 48909

Phone: (517) 284-7750 Fax: (517) 284-7755



Citation and Notification of Penalty

To: Andys Pizza Inc and its successors 1208 W Ganson Jackson, MI 49202	Inspection Number: Inspection Date(s): Issuance Date:	1490471 09/10/2020 - 11/30/2020 12/10/2020
Inspection Site: 1208 W Ganson Jackson, MI 49202	Reporting ID: CSHO ID: Optional Report Number:	0552652 W7119

SUMMARY: An inspection at the site noted above has revealed conditions we believe do not comply with the provisions of the Michigan Occupational Safety and Health Act, Act 154, of the P.A. of 1974, as amended (MIOSH Act). The nature of such alleged violation(s) is described on the citation(s) with reference to the applicable standards, rules, regulations, orders and provisions of the Act. Following is a list of items the employer must consider carefully, to resolve the issues alleged in the citation(s). Following this numbered summary is a more detailed explanation of the requirements.

1. The violation(s) alleged in the citation(s) must be corrected on or before the date(s) shown in the line marked "Date By Which Violation Must Be Abated". If the line is marked "Immediately Upon Receipt," the violation must be corrected on or before the date that the citation is received by the employer. If the violation was corrected during the inspection, the line will be marked "Abated." or "Corrected during inspection." Correcting a violation does not eliminate the requirement to pay the penalty nor does payment of the penalty negate having to correct the violation.
2. A copy of the citation(s) must be posted at or near the location of the violation(s) for a minimum of 3 days or until the item(s) have been corrected, whichever is later.
3. Documentation of abatement must be provided to the issuing division. Failure to provide such documentation may result in a follow-up inspection.
4. The employer may enter into a Penalty Reduction Agreement (PRA) that can result in a 50% reduction in any assessed penalties. The employer should apply for a PRA online at www.michigan.gov/mioshapra within 5 workdays upon receiving a citation(s) if interested. An employer without access to a computer may contact the issuing division to request a PRA.
5. The employer may file a first appeal for modification or dismissal of a citation item and/or any proposed penalty or request an extension of time for abatement. **The appeal must be in writing and be postmarked within 15 workdays of receipt (workday is defined below).** The first appeal can also result in a penalty reduction of up to 50%. If an appeal is untimely, the citation(s) become a Final Order of the Board of Health and Safety Compliance and Appeals (Board) and is no longer subject to review by the issuing division. An employee or employee representative may appeal abatement dates.
6. Except under a PRA monetary penalties must be paid within 15 workdays of a citation becoming a Final Order of the Board.
7. The employer may file a request for an extension of time to abate a citation(s) that has become a Final Order of the Board. Such a request must be in writing and received or post marked no later than 1 working day following the abatement date.
8. It is unlawful to discriminate against an employee for exercising any of their rights under MIOSHA.

Note: As defined in statutes, “workday” or “working day” means any day other than a Saturday, Sunday, or state legal holiday. The state legal holidays are:

January 1, New Year’s Day
The third Monday in January, Martin Luther King, Jr. Day
February 12, Lincoln’s birthday
The third Monday of February, Washington’s birthday
The last Monday of May, Memorial or Decoration Day
July 4, Independence Day
The first Monday in September, Labor Day
The second Monday in October, Columbus Day
November 11, Veterans’ Day
The fourth Thursday of November, Thanksgiving Day
December 25, Christmas Day

Please note whenever January 1; February 12; July 4; November 11; or December 25 fall on a Sunday, the next Monday following is deemed a public holiday (non-working day) for appeal purposes. However, there is no compensating day when one of the five dated holidays falls on a Saturday. Also, when computing the 15 working days, you do not count the date on which it is received; you start with the next working day. Additionally, the count is based on when the citation was received at the employer’s location, not when it got to any particular person or office at the employer’s location.

I–CITATIONS: The nature of the alleged violation(s) is described on the enclosed citation(s). These conditions must be corrected on or before the date(s) shown in the line marked “Date By Which Violation Must Be Abated.” The issuing division may be contacted by telephone at the number indicated on the front of the citation for the purpose of discussing any issues related to the inspection or citation(s).

A copy of the citation(s) must be posted at or near the location of the violation for a minimum of 3 days or until the items have been corrected, whichever is later. The MIOSH Act provides for civil penalties of up to \$7,000 for each violation for failure to comply with posting requirements.

When compliance is achieved, a copy of the citation must be signed and returned to the issuing division along with documentation of abatement.

Documentation of abatement for citation items originally classified as “serious,” “repeat,” “fail-to-abate,” “willful,” or “instance-by-instance,” require documentation as deemed appropriate by the issuing division. Examples of documentation for these violation classifications are:

- (a) A detailed description of how the violation was abated.
- (b) Work orders or an invoice indicating the corrective work that has been done.
- (c) Photographs of the abated conditions.
- (d) Other forms of conclusive evidence that your employees are no longer exposed to the hazard.

For citation items classified as “other,” submitting to the issuing division a signed copy of the citation item indicating the item has been abated is acceptable documentation of abatement. Submitting a document in writing, certifying abatement of the particular citation item is also acceptable for citation items classified as “other.”

If the employer does not provide adequate documentation of abatement, a re-inspection may be conducted. Failure to correct an alleged violation within the abatement period may result in new or additional proposed penalties.

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty. Payment of the penalty does not eliminate the requirement of correcting the violation.

II–PENALTY REDUCTION: In addition to the appeal rights afforded by the MIOSH Act, the Michigan Occupational Safety and Health Administration has implemented a program for negotiating an expedited settlement of penalties with the employers known as a Penalty Reduction Agreement (PRA). This is a program designed to reach abatement of the hazard at the earliest possible opportunity and reduce the need for formal appeals. The penalty reduction (PRA) can result in a penalty reduction of 50% provided the issuing division and the employer agree to a number of specified conditions. These conditions include an agreement by the employer to accept all of the citations issued and to:

- (a) Not appeal further.
- (b) Abate all items within the abatement period.
- (c) Provide proof of abatement.
- (d) Pay all agreed upon penalties as required (within 15 working days of approval of the PRA.)

(e) Abide by any other mutually agreed upon actions.

Inspections involving a fatality, the Severe Violator Enforcement Program (SVEP), or willful citations are not eligible for the program. Construction citations must be confirmed as corrected by the issuing division before a penalty reduction agreement can be approved.

If you are interested in pursuing a PRA, you should apply online at www.michigan.gov/mioshapra **within 5 workdays upon receipt of the citation(s)**, but no later than the 15th workday beyond receipt of the citation(s). If you do not have access to a computer, you should contact the issuing division within the same timeframe to request a PRA. If the employer wishes to accept the conditions stated above and the process can be completed within 15 workdays from receipt, then no appeal need be filed.

III–CITATION APPEAL: An employer may file a first appeal to the issuing division in writing for modification or dismissal of a citation item and/or any proposed penalty or an extension of time for abatement. The first appeal can also result in a penalty reduction of up to 50% providing the issuing division and the employer agree to the conditions (a) through (e) as stated in Section II, PENALTY REDUCTION (above).

An employee or employee representative may appeal in writing the reasonableness of the abatement date(s). The envelope containing an appeal must be postmarked no later than the 15th workday following receipt of the citation.

If a citation is not appealed within 15 workdays of receipt, then the citation becomes a Final Order of the Board of Health and Safety Compliance and Appeals (Board). Final Order citations are not subject to review by the issuing division unless the Bureau of Hearings establishes good cause for the late appeal.

An appeal must specify the item(s) appealed and that portion of the item (e.g., violation, abatement date, penalty) which is being appealed and include a certification that the appeal has been posted or given to affected employees or their representatives. If the issuing division meets with the employer to discuss an appeal, the issuing division will notify the employee representative and allow attendance at the meeting.

The issuing division will notify an employer of its decision within 15 workdays of the receipt of the employer's written appeal. The decision must be posted at the location of the subject citation.

If an employer, employee or employee representative is not satisfied with this decision then they may file a second appeal. The appeal must be in writing and the envelope containing the second appeal must be postmarked within 15 workdays of the receipt of the issuing division's decision on the first appeal. If the issuing division's decision is not appealed then the citation becomes a Final Order of the Board.

IV–PAYMENT OF MONETARY PENALTIES: Unless subject to a PRA, payment must be made within 15 workdays of the date a proposed penalty of a citation becomes a Final Order of the Board. This would be the 30th workday after receipt of each citation item that is not appealed. For payment of a penalty, make a check or money order payable to the "State of Michigan" and remit to the issuing division at the address shown on the citation. Please record the inspection number, citation and item number on the check, money order or transmittal letter.

V–EXTENSION OF TIME TO ABATE: An employer may file a petition for modification of abatement date(s) (PMA) on an item of a citation, which has become a Final Order of the Board. The PMA must be submitted to the issuing division in writing by personal delivery or postmarked no later than one day following the abatement date, and a copy posted near the place the citation was posted. An employer must have made a good faith effort to correct the violation by the abatement date, and has or will not be successful because of factors beyond the employer's reasonable control. A PMA must include:

- (a) Steps taken to achieve compliance.
- (b) The specific additional abatement time necessary.
- (c) The reasons the additional time is needed.
- (d) Available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.
- (e) A certification that a copy of the PMA has been posted for employees at the location of the subject citation.

The posted copy must remain posted for a minimum of 10 workdays.

If the issuing division or affected employees file an objection to the PMA within 10 workdays of the employer's filing date, the Board will schedule a hearing and advise the employer of the date, time, and place of the hearing.

VI–EMPLOYEE DISCRIMINATION: Section 65 of the MIOSH Act, prohibits discrimination by an employer against an employee for filing a complaint or exercising any rights under the MIOSH Act, as amended. If an employee believes that he or she was discharged or otherwise discriminated against as a result of filing a complaint, they may file a

complaint with the MIOSHA Employee Discrimination Section within 30 days after the violation occurs.

VII-STATE CONSULTATION EDUCATION AND TRAINING SERVICES: The MIOSHA Consultation Education and Training (CET) Division offers a wide range of services to help businesses with their health and safety practices. CET services include: helping employers create a Safety and Health Management System, seminars and workshops, onsite consultations, hazard surveys, an equipment loan program and information material. The majority of CET services are provided free of charge to Michigan employers and employees. For information on these services, contact the CET Division at (517) 284-7720 or visit their web site at www.mi.gov/miosha.

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Inspection Number: 1490471
Inspection Date(s): 09/10/2020 - 11/30/2020
Issuance Date: 12/10/2020
Optional Reporting Number:

Citation and Notification of Penalty

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson, Jackson, MI 49202

Citation 1 Item 1

Type of Violation: **Serious**

408.1011(a): ACT 154, MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

An employer shall furnish to each employee, employment and a place of employment that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee.

(The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were not protected from the hazard of contracting the virus, SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of coronavirus disease 2019 (COVID-19):

The following deficiencies were identified:

- a. The employer did not develop an infectious disease preparedness and response plan that can help guide protective actions against COVID-19.
- b. The employer did not provide COVID-19 training to employees about use of workplace controls, proper hygiene practices, policies and procedures for immediately isolating people who have signs and/or symptoms of COVID-19, and use of protective clothing and equipment.
- c. The employer did not conduct daily in-person or virtual health checks (symptom and/or temperature screening) of employees before they enter the facility.
- d. The employer did not ensure that employees wear a cloth face covering as a measure to contain the wearer's respiratory droplets and help protect their co-workers.
- e. The employer did not keep customers informed about symptoms of COVID-19 and ask sick customers to minimize contact with workers until healthy again, such as by posting signs about COVID-19 in stores where sick customers may visit.

Among other methods, a feasible method to correct the hazard is to:

- a. Develop an infectious disease preparedness and response plan that can help guide protective actions against COVID-19.
- b. Provide COVID-19 training to employees about use of workplace controls, proper hygiene practices, policies and procedures for immediately isolating people who have signs and/or symptoms of COVID-19, and use of protective clothing and equipment.
- c. Conduct daily in-person or virtual health checks (symptom and/or temperature screening) of employees before they enter the facility.
- d. Ensure that employees wear a cloth face covering as a measure to contain the wearers respiratory droplets and help protect their co-workers.
- e. Keep customers informed about symptoms of COVID-19 and ask sick customers to minimize contact with workers until healthy again, such as by posting signs about COVID-19 in stores where sick customers may visit.)

Date By Which Violation Must be Abated:

January 19, 2021

Proposed Penalty:

\$1,000.00

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1490471
09/10/2020 - 11/30/2020
12/10/2020

Citation and Notification of Penalty

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson, Jackson, MI 49202

Citation 1 Item 2a

Type of Violation: **Serious**

408.13312(1): GI PART 33, PERSONAL PROTECTIVE EQUIPMENT

An employer shall ensure that each affected employee uses appropriate eye or face protection, when exposed to eye or face hazards from any of the following:

- (a) Flying objects or particles.
- (b) Harmful contacts.
- (c) Exposures.
- (d) Molten metal.
- (e) Liquid chemicals.
- (f) Acids or caustic liquids.
- (g) Chemical fumes, gases or vapors.
- (h) Glare.
- (i) Injurious radiation.
- (j) Electrical flash.
- (k) A combination of these hazards.

(Employees do not wear eye protection while transferring Monogram Cleaning Disposables Disinfectant Bleach, a category 2 skin corrosive and irritant, from a primary container into a secondary container located in the dining area.)

Date By Which Violation Must be Abated:

January 19, 2021

Proposed Penalty:

\$1,000.00

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Citation and Notification of Penalty

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson, Jackson, MI 49202

Citation 1 Item 2b

Type of Violation: **Serious**

325.47201(3): OH PART 472, MEDICAL SERVICES AND FIRST AID

An employer shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body of any person may be exposed to injurious or corrosive materials.

(There was not a suitable quick drenching or flushing area provided for employees eyes who work with Monogram Cleaning Disposables Disinfectant Bleach, a category 2 skin corrosive, located in the dining and kitchen areas.)

Provide a recognized emergency eyewash facility. Such a facility may consist of a plumbed eyewash device or a portable, self-contained eyewash device. The device must (a) have a quick opening valve (activated in 1 second or less and be simple to operate. A second/separate motion to remove nozzle covers is not allowed), (b) flush both eyes simultaneously, (have a stay open feature allowing both hands free to hold eyelids open, and (c) deliver not less than 0.4 gallon per minute for 15 minutes. The travel distance to the eyewash must be a maximum of 10 seconds (approximately 55 feet). Submit to the Agency a photograph of a portable or plumbed installed eyewash facility.

Date By Which Violation Must be Abated:

January 19, 2021

Proposed Penalty:

\$0.00

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1490471
09/10/2020 - 11/30/2020
12/10/2020

Citation and Notification of Penalty

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson, Jackson, MI 49202

Citation 1 Item 3a

Type of Violation: **Serious**

1910.1200(e)(1): GI PART 92, HAZARD COMMUNICATION [REF 408.19202]

Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes a list of hazardous chemicals known to be present, and the methods the employer will use to inform employees of the hazards of non-routine tasks and the hazards associated with chemical contained in unlabeled pipes in their work areas:

(The following required elements of a hazard communication program were not developed, implemented, or maintained:

- a. Written program.
- b. Training provided to employees on the hazards related to the chemicals they are exposed to in the workplace, locating safety data sheets, and the new label elements and safety data sheet format changes.
- c. Safety data sheet for Monogram Disinfectant Bleach.
- d. There was no list of chemicals known to be present in the workplace, including Monogram Disinfectant Bleach.)

Date By Which Violation Must be Abated:

January 19, 2021

Proposed Penalty:

\$1,000.00

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Citation and Notification of Penalty

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson, Jackson, MI 49202

Citation 1 Item 3b

Type of Violation: **Serious**

408.1014j: ACT 154, MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

An employer subject to the standard incorporated by reference in section 14a and to sections 14b to 14l shall post signs throughout the workplace advising employees of all of the following:

- (a) The location of the safety data sheets for the hazardous chemicals produced or used in the workplace and the name of the person from whom to obtain the sheets.
- (b) That the employer is prohibited from discharging or discriminating against an employee who exercises the rights regarding information about hazardous chemicals in the workplace afforded by the standard incorporated by reference in section 14a and by sections 14b to 14l.
- (c) That, as an alternative to requesting the employer for a safety data sheet for a hazardous chemical in the workplace, the employee may obtain a copy of the safety data sheet from the department of licensing and regulatory affairs. The sign shall include the address and telephone number of the division of the department of licensing and regulatory affairs that has the responsibility of responding to such requests.

(There was no sign to inform employees of their rights under the hazard communication standard at the firm.)

Date By Which Violation Must be Abated:
Proposed Penalty:

January 19, 2021
\$0.00

Authorized Signature

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Inspection Date: 09/10/2020 - 11/30/2020
Issuance Date(s): 12/10/2020
Optional Reporting Number:
CSHO ID: W7119

PROPOSED PENALTY INVOICE

Company Name: Andys Pizza Inc and its successors
Inspection Site: 1208 W Ganson
Jackson, MI 49202

Summary of Penalties for Inspection Number: 1490471

Citation 1 Item 1, Serious	\$1,000.00
Citation 1 Item 2a, Serious	\$1,000.00
Citation 1 Item 2b, Serious	\$0.00
Citation 1 Item 3a, Serious	\$1,000.00
Citation 1 Item 3b, Serious	\$0.00

TOTAL PROPOSED PENALTIES: **\$3,000.00**

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty.
Payment of the penalty does not eliminate the requirement of correcting the violation.

The state 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.

Payment must be made within 15 working days of the date a proposed penalty of a citation item becomes a final order of the board. This would be the thirtieth (30th) working day after receipt of each citation item which is not appealed. For the payment of any penalty, make a check or money order payable to the "State of Michigan" and remit to the Department of Labor and Economic Opportunity at the address shown on the citation. **PLEASE RECORD THE APPLICABLE INSPECTION NUMBER, CITATION NUMBER(S) AND ITEM NUMBER(S) ON THE CHECK, MONEY ORDER OR YOUR TRANSMITTAL LETTER.**

Enclose this invoice page (or a copy thereof) with your payment.

Authorized Signature