JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
WORKPLACE SAFETY AND HEALTH DIVISION
45 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0045

LAURA A. FORTMAN
COMMISSIONER

MICHAEL ROLAND
DIRECTOR

May 21, 2019

Stephen Eldridge, Town Manager
Town of Berwick/ Berwick Fire Department
11 Sullivan Street
Berwick, ME 03901

Inspection Number: 1384505

Dear Stephen Eldridge

The Bureau of Labor Standards completed an inspection on 03/05/2019 in which workplace conditions were found that violate Occupational Safety and Health rules. SEE: Title 26 MRSA Chapter 6; 29 CFR parts 1910 & 1926. The unsafe conditions identified are listed in the enclosed citation document attached to this report along with the reference to the applicable Safety and Health standard or regulation that applies. All unsafe condition(s) identified must be corrected by the abatement date indicated on the report.

The enclosed citations will become a final order within fifteen (15) business days from the day it was received, unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above. The total amount of the proposed penalty for the citations(s) is $3,500 payable to the "Treasurer, State of Maine".

Employer options (within 15 business days):

Informal Conference: Within fifteen (15) days of receipt, you have the option of meeting with the Bureau Director or their designee, to present any evidence, which you believe would support an adjustment to the citation(s) and/or penalty(ies). Please keep in mind, an informal conference does not take the place of a written request letter for a penalty discussion or formal appeal. An informal conference is not required and does not need to be in writing. If you choose to request an informal conference, it is highly recommended to call our office to schedule this informal conference, as soon as you get this report. The informal conference does not delay or replace the contest time period for the two options below.

Penalty Discussion: If you intend to correct all hazards identified and wish to work with the Workplace Safety & Health Division to possibly reduce the penalty amount, you may request a "Penalty Discussion", in writing within fifteen (15) days of receipt of this report. (We will contact you to have a penalty discussion after receipt of the completed "Abatement Certification" form). This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

Formal Appeal: You may file a formal appeal of any citation, abatement date, or penalty within fifteen (15) days of receipt of this report. Please be specific as to what citation(s), abatement date or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a "hearing" with the Maine Board of Occupational Safety & Health (BOSH). All proposed penalties will be stayed until after the formal appeal is heard.

PHONE: (207) 623-7900 TTY USERS CALL MAINE RELAY 711 FAX: (207) 623-7937
OFFICES LOCATED AT: CENTRAL MAINE COMMERCE CENTER, 45 COMMERCE DR., AUGUSTA, ME 04330

As the employer, you must respond in writing to the Director of the Bureau or their designee, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose toward correction of the hazards. If no response is received within that time frame you accept all citations, dates of correction, any penalties assessed and the citation report will become a final order. We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties of up to a $1000.00 per violation, for each day hazards are not corrected.

Extension of Abatement Date(s):

An employer may ask for an extension of an abatement date. The request must be in writing and received prior to the assigned abatement date. Please be specific as to the citation(s) you are asking an extension for and the reason for the extension.

Dates to Remember:

-Respond in writing, to the Director or the Bureau within fifteen (15) business days of receipt of this report indicating what option you choose.
-All citations must be corrected by the abatement date listed on the citation page(s) of this report.
-Once the hazards have been corrected, the completed "abatement certification form" included in this report must be received by the Bureau within ten (10) business days after the citation abatement date.

Posting Requirements:

The law requires that a copy of this Citation and notice of penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if this 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 violations(s) cited herein have been abated.

Employer Discrimination Unlawful:

The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising and rights under that 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 Maine Department of Labor, Bureau of Labor Standards at the address above.

The statutory authority for this order is established at Title 26 MRSA, sections 44, 44-A, 45, 46 and 565 et seq. anyone having questions regarding the enclosed citation(s) or your fifteen (15) business day options may contact the Bureau of Labor Standards, Workplace Safety and Health Division at (207) 623-7923.

Steven L. Greeley, Director
Workplace Safety & Health Division
Bureau of Labor Standards

ABATEMENT CERTIFICATION WORKSHEET

Town of Berwick/ Berwick Fire Department
10 Bell Street
Berwick, ME 03901
Issuance Date:05/21/2019

Inspection Number: 1384505

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: Workplace Safety & Health Division, 45 State House Station, Augusta Maine 04333-0045.

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

_____ _____
Signature Date

_____ _____
Typed or Printed Name Title

NOTE: MRSA Title 26 Chapter 3 §46 Any employer who fails to correct a violation for which a citation has been issued under section 45 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board in the case of any review proceeding initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

Maine Department of Labor
Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1384505
Inspection Date: 03/05/2019-04/03/2019
Issuance Date: 05/21/2019

Citation and Notification of Penalty

Company Name: Town of Berwick/ Berwick Fire Department
Inspection Site: 10 Bell Street Berwick, ME 03901

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

T.26Ch.28§2104(3): Self-contained breathing apparatus. The employer did not ensure the self-contained breathing apparatus cylinders used for structural firefighting complied with the original effectiveness as recommended by the manufacturer.

Multiple cylinders were found in use beyond the manufacturer's established shelf life.

Acceptable and feasible methods to correct the conditions include but are not limited to: Inspect all cylinders for compliance with the manufacturers requirements and remove non-compliant cylinders from service.

Date By Which Violation Must Be Abated: **June 24, 2019**
Proposed Penalty: **$700.00**

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

T.26Ch.28§2105 (1)(B): The employer of the fire department which has full time employees did not ensure the SCBA's were inspected weekly.

SCBA's and associated face pieces were not inspected weekly.

Acceptable and feasible methods to correct the conditions include but are not limited to: Train all employees on the manufacturer's inspection requirements and State of Maine statute on weekly inspections.

Date By Which Violation Must Be Abated: **June 24, 2019**
Proposed Penalty: **$700.00**

Maine Department of Labor
Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1384505
Inspection Date: 03/05/2019-04/03/2019
Issuance Date: 05/21/2019

Citation and Notification of Penalty

Company Name: Town of Berwick/ Berwick Fire Department
Inspection Site: 10 Bell Street Berwick, ME 03901

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

29 CFR 1910.134(g)(3)(ii): Visual, voice, or signal line communication was not maintained between the employee(s) in the immediately dangerous to life or health (IDLH) atmosphere and the employee(s) located outside the IDLH atmosphere during the structure fire at 10 Bell Street, Berwick, Maine.

During the structure fire at 10 Bell Street the Incident Commander did not establish a line of communications which allowed all responding units (police, fire and EMS) to be able to communicate with each other as agencies arrived on scene and during known victim rescue.

Acceptable and feasible methods to correct the conditions include but are not limited to: The employer shall insure that a communications policy includes the provisions for the Incident Commander to establish a clear line of communications on the fire ground to include consistent radio communications for interior, fire ground and incoming auto/mutual aid agencies including police department and EMS. The employer shall ensure that all employees of BFD are trained or retrained on this policy, and the policy is shared with all auto/mutual departments and to include police and EMS.

Date By Which Violation Must Be Abated: **June 24, 2019**
Proposed Penalty: **$700.00**

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

T.26Ch.6561-A: The employer did not furnish to each employee a place of employment that was free from recognized hazards, that could cause or are likely to cause death or serious physical harm to employees.

The Incident Commander did not initiate the employer's accountability system at the beginning of the operation which delayed firefighter rescue.

Acceptable and feasible methods to correct the conditions include but are not limited to: Retrain all employees on the employer's accountability policy and the proper deployment of the assigned accountability tags on the passport system. The employer must ensure that the accountability system is being implemented by all members.

Date By Which Violation Must Be Abated: **June 24, 2019**
Proposed Penalty: **$700.00**

Maine Department of Labor
Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1384505
Inspection Date: 03/05/2019-04/03/2019
Issuance Date: 05/21/2019

Citation and Notification of Penalty

Company Name: Town of Berwick/ Berwick Fire Department
Inspection Site: 10 Bell Street Berwick, ME 03901

Citation 1 Item 5 Type of Violation: **Serious**

T.26Ch.6561-A: The employer did not furnish to each employee a place of employment that was free from recognized hazards, that could cause or are likely to cause death or serious physical harm to employees.

The Incident Commander at this operation did not evaluate the risk to employee's safety by performing a 360 degree size up before entry into the building.

Acceptable and feasible methods to correct the conditions include but are not limited to: The employer shall review the BFD Emergency Incident Response SOG to include updating the SOG as needed, to address the need for a 360 size-up prior to entry. Then employer then shall retrain all employees on the requirements of the updated SOG.

Date By Which Violation Must Be Abated: **June 24, 2019**
Proposed Penalty: **$700.00**

Steven L. Greeley, Director
Workplace Safety & Health Division