

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Long Beach District Office
1500 Hughes Way, Suite C201
Long Beach, CA 90810
Phone: (424) 450-2630 Fax: (424) 450-2675

Inspection #: 1506240
Inspection Dates: 12/10/2020 – 08/27/2021
Issuance Date: 08/30/2021
CSHO ID: J9223
Optional Report #: 011-21



Citation and Notification of Penalty

Company Name: Smithfield Foods, Inc. / Smithfield Distribution, LLC
Establishment DBA:

and its successors

Inspection Site: 3049 E. Vernon Avenue / 3163 E. Vernon Avenue
Vernon, CA 90058

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

California Code of Regulations, Title 8, Section 342(a). Reporting Work-connected Fatalities and Serious Injuries.

(a) Every employer shall report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

Employer failed to immediately report to the Division serious illnesses suffered by employees including, but not limited to, the following:

- (1) Employee admitted to a hospital for a COVID 19 related illness on or about December 16, 2020.**
- (2) Employee admitted to a hospital for a COVID 19 related illness on or about December 21, 2020.**
- (3) Employee admitted to a hospital for a COVID 19 related illness on or about December 26, 2020.**
- (4) Employee admitted to a hospital for a COVID 19 related illness on or about January 3, 2021.**
- (5) Employee admitted to a hospital for a COVID 19 related illness on or about January 8, 2021.**
- (6) Employee admitted to a hospital for a COVID 19 related illness on or about January 9, 2021.**
- (7) Employee admitted to a hospital for a COVID 19 related illness on or about January 15, 2021.**
- (8) Employee admitted to a hospital for a COVID 19 related illness on or about February 1, 2021.**

Date By Which Violation Must be Abated:	October 01, 2021
Proposed Penalty:	\$5000.00

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

California Code of Regulations, Title 8, Section 14300.29(a). Forms.

(a) Basic requirement. You must use Cal/OSHA 300, 300A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The Cal/OSHA Form 300 is called the Log of Work-Related Injuries and Illnesses, the Cal/OSHA Form 300A is called the Summary of Work-Related Injuries and Illnesses, and the Cal/OSHA Form 301 is called the Injury and Illness Incident Report. Appendices A through C give samples of the Cal/OSHA forms. Appendices D through F provide elements for development of equivalent forms consistent with Section 14300.29(b)(4) requirements. Appendix G is a worksheet to assist in completing the Cal/OSHA Form 300A.

Instance 1

During the course of the inspection, including, but not limited to, on June 8, 2021, the employer did not fully complete the 2020 Cal/OSHA Form 300. The employer had not recorded COVID-19 related employee illnesses on the 2020 Cal/OSHA Form 300 where employees had at least three (3) COVID-19 illnesses: these included two (2) hospitalizations and one (1) fatality.

Instance 2

During the course of the inspection, including, but not limited to, on June 8, 2021, the employer did not fully complete the 2021 Cal/OSHA Form 300. The employer had not recorded COVID-19 related employee illnesses on the 2021 Cal/OSHA Form 300 where employees had at least five (5) COVID-19 illnesses: these included two (2) hospitalizations and three (3) fatalities.

[Reference: 18CCR 14300.5(a)]

(a) Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 14300.5(b)(2) specifically applies.

Date By Which Violation Must be Abated:

October 01, 2021

Proposed Penalty:

\$450.00

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Inspection Site: 3049 E. Vernon Avenue / 3163 E. Vernon Avenue
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Citation 1 Item 3 Type of Violation: **Regulatory**

California Code of Regulations, Title 8, Section 3205(c)(3)(B)3.a. COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(3) Investigating and responding to COVID-19 cases in the workplace.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

3. Give notice of the potential COVID-19 exposure, within one business day, in a way that does not reveal any personal identifying information of the COVID-19 case, to the following:

a. All employees who may have had COVID-19 exposure and their authorized representatives.

[Reference: Labor Code 6409.6]

(a) If an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer shall take all of the following actions within one business day of the notice of potential exposure:

(1) Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19 in a manner the employer normally uses to communicate employment-related information. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending and shall be in both English and the language

understood by the majority of the employees.

(2) Provide a written notice to the exclusive representative, if any, of employees under paragraph (1).

(c) The notice required pursuant to paragraph (2) of subdivision (a) shall contain the same information as would be required in an incident report in a Cal/OSHA Form 300 injury and illness log unless the information is inapplicable or unknown to the employer. This requirement shall apply regardless of whether the employer is required to maintain a Cal/OSHA Form 300 injury and illness log. Notifications required by this section shall not impact any determination of whether or not the illness is work related.

Prior to and during the course of the inspection, including, but not limited to, on March 25, 2021, the employer gave notice of potential COVID-19 exposure in a way that revealed personal identifying information of the COVID-19 case. A color-coded roster posted at the Distribution Center identified employee's COVID-19 status.

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

California Code of Regulations, Title 8, Section 3205(c)(9)(C). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(9) Reporting, recordkeeping, and access.

(C) The employer shall maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b).

Instance 1

Prior to and during the course of the inspection, including but not limited to, on March 24, 2021, the ventilation records pertaining to the identification of unsafe conditions did not include the person(s) conducting the inspection and action taken to correct the identified unsafe conditions.

Instance 2

Prior to and during the course of the inspection, the employer failed to maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b). Training records for COVID-19 did not include the training provider as required by t8CCR 3203(b)(2).

[Reference t8CCR 3203(b):

(b) Records of the steps taken to implement and maintain the Program shall include:

(1) Records of scheduled and periodic inspections required by subsection (a)(4) to identify unsafe

conditions and work practices, including person(s) conducting the inspection, the unsafe conditions and work practices that have been identified and action taken to correct the identified unsafe conditions and work practices. These records shall be maintained for at least one (1) year; and

(2) Documentation of safety and health training required by subsection (a)(7) for each employee, including employee name or other identifier, training dates, type(s) of training, and training providers. This documentation shall be maintained for at least one (1) year.

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

California Code of Regulations, Title 8, Section 5142(b). Mechanically Driven Heating, Ventilating and Air Conditioning (HVAC) Systems to Provide Minimum Building Ventilation.

(b) Inspection and Maintenance:

(1) The HVAC system shall be inspected at least annually, and problems found during these inspections shall be corrected within a reasonable time.

(2) Inspections and maintenance of the HVAC system shall be documented in writing. The employer shall record the name of the individual(s) inspecting and/or maintaining the system, the date of the inspection and/or maintenance, and the specific findings and actions taken. The employer shall ensure that such records are retained for at least five years.

(3) The employer shall make all records required by this section available for examination and copying, within 48 hours of a request, to any authorized representative of the Division (as defined in Section 3207), to any employee of the employer affected by this section, and to any designated representative of said employee of the employer affected by this section.

Prior to and during the course of the inspection, including, but not limited to, on February 23, 2021, the employer failed to ensure that the inspections and maintenance of the HVAC system was documented in writing with the name of the individual(s) inspecting and/or maintaining the system, the date of the inspection and/or maintenance, and the specific findings and actions taken, as required by t8CCR 5142(b)(2).

In the alternative;

The employer failed to make all records required by this section available for examination within 48 hours of a request to an authorized representative of the Division in accordance with t8CCR 5142(b)(3). These records include inspections and maintenance of the HVAC system for the past five years as required by t8CCR 5142(b)(1) and 5142(b)(2).

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Citation 1 Item 6 Type of Violation: **Regulatory**

Labor Code Reference: Labor Code 6409.6(a)(1) Notice of Potential Exposure.

(a) If an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer shall take all of the following actions within one business day of the notice of potential exposure:

(1) Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19 in a manner the employer normally uses to communicate employment-related information. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending and shall be in both English and the language understood by the majority of the employees.

(2) Provide a written notice to the exclusive representative, if any, of employees under paragraph (1).

(c) The notice required pursuant to paragraph (2) of subdivision (a) shall contain the same information as would be required in an incident report in a Cal/OSHA Form 300 injury and illness log unless the information is inapplicable or unknown to the employer. This requirement shall apply regardless of whether the employer is required to maintain a Cal/OSHA Form 300 injury and illness log. Notifications required by this section shall not impact any determination of whether or not the illness is work related.]

Instance 1

Prior to and during the course of the inspection, including but not limited to, December 10, 2020, when there has been a COVID-19 case at this place of employment, the employer failed to give notice of the potential COVID-19 exposure, within one business day, in a way that does not reveal

any personal identifying information of the COVID-19 case, to all employees who may have had COVID-19 exposure and their authorized representatives. This includes notifications to the following authorized representatives:

- United Commercial Food Workers Local 770
- Teamsters Local 63
- International Union of Operating Engineers 501

Instance 2

Prior to and during the course of the inspection, including but not limited to, December 10, 2020, the employer failed to provide written notice to United Commercial Food Workers Local 770 within one business day, that included all of the information required by the incident report in a Cal/OSHA Form 300 Injury and Illness log, in accordance with Labor Code 6409.6(c), including but not limited to, the name of the employee(s) and a description of the illness as required by 8CCR 3205(c)(3)(B)3.

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Citation 1 Item 7 Type of Violation: **General**

California Code of Regulations, Title 8, Section 3205(c)(1). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible COVID-19 exposures, and possible COVID-19 hazards at the workplace.

(B) Describe procedures or policies for accommodating employees with medical or other conditions that put them at increased risk of severe COVID-19 illness.

(C) Provide information about access to COVID-19 testing. If testing is required under this section, section 3205.1, or section 3205.2, the employer shall inform affected employees of the reason for the COVID-19 testing and the possible consequences of a positive test.

(D) In accordance with subsection (c)(3)(B)3., communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

Prior to and during the course of the inspection, including but not limited to, December 10, 2020, the Employer failed to establish, implement and maintain an effective system for communicating information about COVID-19 as required by t8CCR 3205(c)(1)(A) through t8CCR 3205(c)(1)(D).

Date By Which Violation Must be Abated: **October 01, 2021**
Proposed Penalty: **\$675.00**

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Citation 1 Item 8 Type of Violation: **General**

California Code of Regulations, Title 8, Section 3205(c)(2)(E). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(2) Identification and evaluation of COVID-19 hazards.

(E) For indoor locations, the employer shall evaluate how to maximize the quantity of outdoor air and whether it is possible to increase filtration efficiency to the highest level compatible with the existing ventilation system.

Prior to and during the course of the inspection, for indoor locations, the employer failed to evaluate how to maximize the quantity of outdoor air as required by t8CCR 3205(c)(2)(E).

Date By Which Violation Must be Abated: **October 01, 2021**
Proposed Penalty: **\$840.00**

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Citation 1 Item 9 Type of Violation: **General**

California Code of Regulations, Title 8, Section 3380(f). Personal Protective Devices.

(f) Hazard assessment and equipment selection.

(2) The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

Prior to and during the course of the inspection, including but not limited to, on June 11, 2021, the employer failed to verify that the required workplace hazard assessment for eye, face, hand and foot protection was performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment as required by t8CCR 3380(f)(2) for areas including, but not limited to, the following:

- Distribution Center
- Sausage Chopper Room
- Bacon Slice
- Old Pork Cut and Packing Area
- Bone In Loin
- Mohawk
- Hog Processing
- Picnic Boning Days
- Ham Boning
- Loin Boning
- Bacon Smokehouse
- Heating, Ventilation and Air Conditioning

Date By Which Violation Must be Abated:

October 01, 2021

Proposed Penalty:

\$840.00

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

California Code of Regulations, Title 8, Section 3205(c)(2)(A). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

Prior to and during the course of the inspection, including but not limited to. December 10, 2020, the Employer failed to allow the participation of employee(s) and authorized employee representative(s) in the identification and evaluation of COVID-19 hazards.

Date By Which Violation Must be Abated: September 09, 2021
Proposed Penalty: \$0.00

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**Citation and Notification of Penalty**

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

California Code of Regulations, Title 8, Section 3205(c)(5). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards.

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under workers' compensation law, the federal Families First Coronavirus Response Act, Labor Code sections 248.1 and 248.5, Labor Code sections 3212.86 through 3212.88, local governmental requirements, the employer's own leave policies, and leave guaranteed by contract.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) Methods of physical distancing of at least six feet and the importance of combining physical distancing with the wearing of face coverings.

(E) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing must be combined with other controls, including face coverings and hand hygiene, to be effective.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if

the employee has COVID-19 symptoms.

Prior to and during the course of the inspection, including but not limited to, December 10, 2020, the Employer failed to provide effective training and instruction to employees for COVID-19 Prevention as required by t8CCR 3205(c)(5)(A) through t8CCR 3205(c)(5)(H).

Date By Which Violation Must be Abated:

September 09, 2021

Proposed Penalty:

\$16200.00

State of California

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

California Code of Regulations, Title 8, Section 3205(c)(6)(A) COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(6) Physical distancing.

(A) All employees shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not possible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees.

Prior to and during the course of the inspection, including, but not limited to, on March 2, 2021 the employer failed to ensure that employees were separated from other persons by at least six feet at the at the Distribution Center and Bacon Slice Area.

Or in the alternative:

(8) Other engineering controls, administrative controls, and personal protective equipment.

(A) At fixed work locations where it is not possible to maintain the physical distancing requirement at all times, the employer shall install cleanable solid partitions that effectively reduce aerosol transmission between the employee and other persons.

(B) For buildings with mechanical or natural ventilation, or both, employers shall maximize the

quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or letting in outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(E) Personal protective equipment.

2. Employers shall evaluate the need for respiratory protection in accordance with section 5144 when the physical distancing requirements in subsection (c)(6) are not feasible or are not maintained.

Prior to and during the course of the inspection, including, but not limited to, on June 11, 2021, employer failed to have installed cleanable solid partitions to effectively reduce aerosol transmission between employees and other persons in the Distribution Center and Bacon Slice Area where employees are working in close proximity to each other.

Date By Which Violation Must be Abated:	September 09, 2021
Proposed Penalty:	\$16200.00

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

California Code of Regulations, Title 8, Section 3205(c)(10). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(10) Exclusion of COVID-19 cases. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(B) Employers shall exclude employees with COVID-19 exposure from the workplace for 14 days after the last known COVID-19 exposure to a COVID-19 case.

Instance 1

Prior to and during the course of the inspection, including, but not limited to, on or about January 6, 2021, at the Boneless Line Debone (also known as Ham Boning, Bone in Loins), the employer failed to exclude employees with COVID-19 exposure to a COVID-19 case.

Instance 2

Prior to and during the course of the inspection, including, but not limited to, on or about February 6, 2021, at Loin Boning, the employer failed to exclude employees with COVID-19 exposure to a COVID-19 case.

Date By Which Violation Must be Abated: September 09, 2021
Proposed Penalty: \$16200.00

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Compliance Officer / District Manager