

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Bakersfield District Office
7718 Meany Avenue
Bakersfield, CA 93308
Phone: (661) 588-6400 Fax: (661) 588-6428

Inspection #: 1496781
Inspection Dates: 07/23/2020 – 05/17/2021
Issuance Date: 05/18/2021
CSHO ID: N1738
Optional Report #: 008-21



Citation and Notification of Penalty

Company Name: Foster Poultry Farms, Inc.

Establishment DBA:

and its successors

Inspection Site: 655 Davis Street
Livingston, CA 95334

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

California Code of Regulations , Title 8, Occupational Injury or Illness Reports and Records, Section 14300.29. 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.

REFERENCE

CCR, Title 8, Occupational Injury or Illness Reports and Records, Section 14300.5. Determination of Work-Relatedness.

(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.

Alleged Violation Description (AVD):

Prior to and during the course of the inspection, the employer did not fully complete the 2020 Cal/OSHA Form 300 in that it failed to record all COVID-19-related employee illnesses and deaths on the form.

Date By Which Violation Must be Abated:

June 11, 2021

Proposed Penalty:

\$425.00

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

California Code of Regulations, Title 8, Section 5194. Hazard Communication

(f) Labels and Other Forms of Warning.

(6) Workplace labeling. Except as provided in sections 5194(f)(7) and (f)(8) the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged, or marked with either:

(A) The information specified under section 5194 (f)(1)(A) through (E) for labels on shipped containers; or,

(B) Product identifier and words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with the specific information regarding the physical and health hazards of the hazardous chemical.

Alleged Violation Description (AVD):

Prior to and during the course of the inspection, including, but not limited to, on September 16, 2020, the Employer did not ensure that within the NCDC2 work area, each container of Spartan Chemical Company Clean On The Go brand disinfectant used by its employee's was labeled as required by this section.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$475.00

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

California Code of Regulations, Title 8, Regulations of the Division of Occupational Safety and Health 342(a) Reporting Work-Connected Fatalities and Serious Injuries

(a) Every employer shall report immediately to 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. The report shall be made by the telephone or through a specified online mechanism established by the Division for this purpose. Until the division has made such a mechanism available, the report may be made by telephone or email.

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

Alleged Violation Description (AVD):

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

Instance 1: Employee fatality that occurred on or about August 4, 2020 due to a COVID-19-related illness

Instance 2: Employee fatality that occurred on or about August 8, 2020 due to a COVID-19-related illness.

Instance 3: Employee fatality that occurred on or about August 14, 2020 due to a COVID-19-related illness.

The employer, Foster Poultry Farms was previously cited for a violation of this occupational safety and

health standard Section 342 (a), which was contained in Division inspection number 1371984, citation number 1, item number 1 and was affirmed as a final order on September 19, 2019, with respect to a workplace located at 843 Davis Street, Livingston, CA.

Date By Which Violation Must be Abated:

June 11, 2021

Proposed Penalty:

\$10000.00

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**Citation and Notification of Penalty**

Company Name: Foster Poultry Farms, Inc.

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Inspection Site: 655 Davis Street
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Citation 3 Item 1 Type of Violation: **Serious**

California Code of Regulations, Title 8, Section 3203(a)(3) Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

...

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

Alleged Violation Description (AVD):

Prior to and during the course of the Division's inspection, including but not limited to, on July 23, 2020, the employer failed to establish, maintain and implement an effective system for communicating with its own employees and contract employees of Human Bees, Inc., fka Avitek Recruit, Inc.; Intermountain Employment Services, Inc. dba Ascend Staffing; Staffing Solutions, Inc. dba Balance Staffing; and Marcos Renteria Ag Services, Inc., including, but not limited to, in the following instances:

Instance 1: Failed to effectively communicate about COVID-19 in the work place, including infections, outbreaks, and fatalities of employees to all workers who were exposed or potentially exposed;

Instance 2: Employer's meetings, training programs, posting, and other means of communication failed to communicate in a form readily understandable to the affected employees, including providing information in a language readily understandable by workers, about COVID-19 infections at the facility;

Instance 3: Failed to effectively communicate measures the employer was taking to prevent employee exposure to SARS-CoV-2, the virus that causes COVID-19.

Date By Which Violation Must be Abated:	June 02, 2021
Proposed Penalty:	\$22500.00

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and its successors

Inspection Site: 655 Davis Street
Livingston, CA 95334

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

California Code of Regulations, Title 8, Section 3203(a)(4) Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:

(A) When the Program is first established;

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

Alleged Violation Description (AVD):

Prior to and during the course of the Division's inspection, including but not limited to, on July 23, 2020, the employer failed to establish, implement and maintain an effective Injury and Illness Prevention Program in that employer failed to effectively identify or evaluate workplace hazards relating to COVID-19 that affected its own employees and contract employees of Human Bees, Inc., fka Avitek Recruit, Inc.; Intermountain Employment Services, Inc. dba Ascend Staffing; Staffing Solutions, Inc. dba Balance Staffing and Marcos Renteria Ag Services, Inc. In particular, the employer:

a) Failed to identify and evaluate the hazard of not providing or ensuring the use of or proper use face coverings for all employees to prevent the release of infectious particles into the air when persons are breathing, speaking, coughing, or sneezing;

b) Failed to identify and evaluate the hazard of worn, damaged or contaminated face coverings;

c) Failed to identify and evaluate the hazard of a lack of physical distancing among employees, including the Interior Plant Breakroom, where employees were closer than six feet from each other

while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

d) Failed to identify and evaluate the hazard of a lack of effective physical barriers at the facility, including in the Interior Plant Breakroom, where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

Date By Which Violation Must be Abated:

June 02, 2021

Proposed Penalty:

\$22500.00

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

California Code of Regulations, Title 8, Section 3203(a)(6) Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

Alleged Violation Description (AVD):

Prior to and during the course of the Division's inspection, including but not limited to, on July 23, 2020, the employer failed to establish, implement and maintain an effective Injury and Illness Prevention Program including a failure to effectively implement methods or procedures to correct unhealthy conditions or work practices relating to COVID-19 that affected its own employees and contract employees of Human Bees, Inc., fka Avitek Recruit, Inc.; Intermountain Employment Services, Inc. dba Ascend Staffing; Staffing Solutions, Inc. dba Balance Staffing; and Marcos Renteria Ag Services, Inc. In particular, the employer:

a) Failed to provide or implement the use of effective face coverings to prevent the release of infectious particles into the air when persons are breathing, speaking, coughing, or sneezing;

b) Failed to correct the fit issues associated with use of inadequate face covering as a means to prevent employee exposure to SARS-CoV-2, the virus that causes COVID-19;

c) Failed to implement a procedure to replace worn, damaged, or contaminated face coverings;

d) Failed to implement physical distancing among employees, including in the Interior Plant Breakroom, where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

e) Failed to provide effective physical barriers among employees, including in the Interior Plant Breakroom, where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines. [Section 3203(a)(6)]

Or, in the Alternative to Instance a)

T8,CCR, Section 5141 Control of Harmful Exposure to Employees.

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible.

Prior to, and during the course of the Division's inspection, including, but not limited to, on July 23, 2020, the employer failed to prevent harmful exposures of its own employees and contract employees of Human Bees, Inc., fka Avitek Recruit, Inc.; Intermountain Employment Services, Inc. dba Ascend Staffing; Staffing Solutions, Inc. dba Balance Staffing; and Marcos Renteria Ag Services, Inc., to infectious or potentially infectious airborne particles by ensuring the use of engineering controls to prevent the spread of COVID-19, including, but not limited to, face coverings to limit the release of infectious particles into the air when persons are speaking, coughing, or sneezing.

Date By Which Violation Must be Abated:

June 02, 2021

Proposed Penalty:

\$22500.00

Efren Gomez
Compliance Officer / District Manager