

**State of California**

Department of Industrial Relations  
Division of Occupational Safety and Health  
Oakland District Office  
1515 Clay Street, Suite 1303  
Oakland, CA 94612  
Phone: (510) 622-2916 Fax: (510) 622-2908

**Inspection #:** 1515041  
**Inspection Dates:** 02/16/2021 – 07/30/2021  
**Issuance Date:** 07/30/2021  
**CSHO ID:** U7118  
**Optional Report #:** 0-36

**Citation and Notification of Penalty**

**Company Name:** Fruitvale Operating Company, LP  
**Establishment DBA:** Fruitvale Healthcare Center  
and its successors  
**Inspection Site:** 3020 E 15th Street  
Oakland, CA 94601

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

**California Code of Regulations, Title 8, §5199(c)(9). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(9) The employer shall establish and maintain training records, vaccination records, records of exposure incidents, and records of inspection, testing, and maintenance of non-disposable engineering controls, in accordance with subsection (j). If the employer utilizes respirators, the employer shall maintain records of implementation of the Respiratory Protection Program in accordance with Section 5144, Respiratory Protection, of these orders.**

**References:**

**California Code of Regulations, Title 8, §5199(j)(3)(G). Aerosol Transmissible Diseases.**

**(j) Recordkeeping.**

**(3) Records of implementation of ATD Plan and/or Biosafety Plan.**

**(G) Records of the respiratory protection program shall be established and maintained in accordance with Section 5144, Respiratory Protection, of these orders. Employers who provide fit-test screening, in accordance with the exception to subsection (g)(6)(B)3 shall retain the screening record for two years.**

**California Code of Regulations, Title 8, §5144(m)(2)(A)3. Respiratory Protection.**

**(m) Recordkeeping. This section requires the employer to establish and retain written information regarding medical evaluations, fit testing, and the respirator program. This information will facilitate employee involvement in the respirator program, assist the employer in auditing the adequacy of the program, and provide a record for compliance determinations by OSHA.**

**(2) Fit testing.**

**(A) The employer shall establish a record of the qualitative and quantitative fit tests administered to an employee including:**

**1. The name or identification of the employee tested;**

2. Type of fit test performed;
3. Specific make, model, style, and size of respirator tested;
4. Date of test; and
5. The pass/fail results for QLFTs or the fit factor and strip chart recording or other recording of the test results for QNFTs.

Violation

Prior to and during the course of the Division's inspection, including but not limited to, on February 16, 2021, the employer failed to establish a record of the qualitative fit tests administered to employees at the facility, who were required to wear respiratory protection during the years of 2020 and 2021, that included the specific model, style and size of respirator that the employee was fit tested on. [Ref. T8 CCR Section 5199(j)(3)(G) and Section 5144(m)(2)(A)3.]

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 03, 2021**  
**\$375.00**

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Oakland, CA 94601

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

**California Code of Regulations, Title 8, §5194(e)(1). Hazard Communication.**

**(e) Written Hazard Communication Program.**

(1) Employers shall develop, implement, and maintain at the workplace a written hazard communication program for their employees which at least describes how the criteria specified in sections 5194(f), (g), and (h) for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:

- (A) A list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and
- (B) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

**References:**

**California Code of Regulations, Title 8, §5194(f)(6). 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.

## Violation

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to develop, implement, and maintain at the workplace a written hazard communication program for their employees handling various hazardous substances, which at least describes how the criteria specified in section 5194(f) for labels and other forms of warning will be met. [Ref. T8 CCR Section 5194(f)(6)]

**Date By Which Violation Must be Abated:**

**September 03, 2021**

**Proposed Penalty:**

**\$560.00**

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### Citation and Notification of Penalty

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 Oakland, CA 94601

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

**California Code of Regulations, Title 8, §5199(c)(2). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(2) The employer shall establish, implement, and maintain effective written source control procedures. For fixed health care and correctional facilities, and in other facilities, services, and operations to the extent reasonably practicable, these procedures shall incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings. These procedures shall include the method of informing persons with whom employees will have contact of the employer's source control measures.**

Violation:

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to establish, implement, and maintain effective written source control procedures which shall incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings and procedures to include the method of informing persons with whom employees will have contact of the employer's source control measures.

<b>Date By Which Violation Must be Abated:</b>	<b>September 03, 2021</b>
<b>Proposed Penalty:</b>	<b>\$1125.00</b>

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**Citation and Notification of Penalty**

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Oakland, CA 94601

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

**California Code of Regulations, Title 8, §5199(c)(3). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(3) The employer shall establish, implement, and maintain effective written procedures for the screening and referral of cases and suspected cases of AirIDs to appropriate facilities.**

**(A) Transfers shall occur within 5 hours of the identification of the case or suspected case, unless:**

- (1) the initial encounter with the case or suspected case occurs after 3:30 p.m. and prior to 7 a.m., in which event the employer shall ensure that transfer occurs no later than 11:00 a.m.; or**
- (2) the employer has contacted the local health officer, determined that there is no facility that can provide appropriate All, and complied with all of the conditions in (e)(5)(B)2.; or**
- (3) the case meets the conditions of either of the exceptions to subsection (e)(5)(B).**

**(B) When screening is provided by persons who are not health care providers, the employer shall meet the requirements of this section by establishing criteria and procedures for referral of persons to a health care provider for further evaluation within the timeframes in subsection (c)(3)(A). Referrals shall be provided to persons who do any of the following:**

- 1. Have a cough for more than three weeks that is not explained by non-infectious conditions.**
- 2. Exhibit signs and symptoms of a flu-like illness during March through October, the months outside of the typical period for seasonal influenza, or exhibit these signs and symptoms for a period longer than two weeks at any time during the year. These signs and symptoms generally include combinations of the following: coughing and other respiratory symptoms, fever, sweating, chills, muscle aches, weakness and malaise.**

**3. State that they have a transmissible respiratory disease, excluding the common cold and seasonal influenza.**

**4. State that they have been exposed to an infectious ATD case, other than seasonal influenza.**

Violation

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to have established and implemented written procedures for the screening and referral of cases and suspected cases of any Airborne infectious disease cases (AIRDs) to appropriate facilities.

**Date By Which Violation Must be Abated:  
Proposed Penalty:**

**September 03, 2021  
\$1125.00**

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

**California Code of Regulations, Title 8, §5199(c)(4). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(4) The employer shall establish, implement, and maintain effective written procedures to communicate with employees, other employers, and the local health officer regarding the suspected or diagnosed infectious disease status of referred patients. These shall include procedures to receive information from the facility to which patients were referred and to provide necessary infection control information to employees who were exposed to the referred person.**

## Violation

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to have established and implemented written procedures to communicate with employees, other employers, and the local health officer regarding the suspected or diagnosed airborne infectious disease status of referred patients which shall include procedures to receive information from the facility to which patients were referred and to provide necessary infection control information to employees who were exposed to the referred person.

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**September 03, 2021**  
**\$1125.00**



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

**California Code of Regulations, Title 8, §5199(c)(5). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(5) The employer shall establish, implement and maintain effective written procedures to reduce the risk of transmission of aerosol transmissible disease, to the extent feasible, during the period the person requiring referral is in the facility or is in contact with employees. In addition to source control measures, these procedures shall include, to the extent feasible:**

- (A) placement of the person requiring referral in a separate room or area;**
- (B) provision of separate ventilation or filtration in the room or area; and**
- (C) employee use of respiratory protection when entering the room or area in which the person requiring referral is located, if that person is not compliant with source control measures. Respirator use shall meet the requirements of subsection (g) and Section 5144, Respiratory Protection, of these orders.**

Violation

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to have established and implemented written procedures to reduce the risk of transmission of aerosol transmissible diseases, during the period the person requiring referral is in the facility or is in contact with employees, in accordance with Section 5199(c)(5)(A) through (C).

<b>Date By Which Violation Must be Abated:</b>	<b>September 03, 2021</b>
<b>Proposed Penalty:</b>	<b>\$1125.00</b>

**State of California**

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**Citation and Notification of Penalty**

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**Establishment DBA:** Fruitvale Healthcare Center  
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Oakland, CA 94601

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

**California Code of Regulations, Title 8, §5199(c)(6)(B). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(6) The employer shall establish a system of medical services for employees which meets the following requirements:**

**(B) The employer shall develop, implement, and maintain effective written procedures for exposure incidents in accordance with subsections (h)(6) through (h)(9).**

**References:**

**California Code of Regulations, Title 8, §5199(h)(6) through (h)(9). Aerosol Transmissible Diseases.**

**(h) Medical Services.**

**(6) Exposure Incidents.**

**(A) A health care provider, or the employer of a health care provider who determines that a person is an RATD case or suspected case shall report, or ensure that the health care provider reports, the case to the local health officer, in accordance with Title 17.**

**(B) In addition to the report required in subsection (h)(6)(A), the employer in the facility, service or operation that originates the report shall determine, to the extent that the information is available in the employer's records, whether the employee(s) of any other employer(s) may have had contact with the case or suspected case while performing activities within the scope of this section. The employer shall notify the other employer(s) within a timeframe that will both provide reasonable assurance that there will be adequate time for the employee to receive effective medical intervention to prevent disease or mitigate the disease course, and will also permit the prompt initiation of an investigation to identify exposed employees. In no case, shall the notification be longer than 72 hours after the report to the local health officer. The notification shall include the date, time, and nature of the potential exposure, and provide any other information that is necessary for the other employer(s) to evaluate the potential exposure of his or her employees. The notifying employer shall not provide the identity of the source patient to the other employers.**

**(C) Each employer who becomes aware that his or her employees may have been exposed to an RATD case or suspected case, or to an exposure incident involving an ATP-L shall do all of the following:**

1. Within a timeframe that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 72 hours following, as applicable, the employer's report to the local health officer or the receipt of notification from another employer or the local health officer, conduct an analysis of the exposure scenario to determine which employees had significant exposures. This analysis shall be conducted by an individual knowledgeable in the mechanisms of exposure to ATPs or ATPs-L, and shall record the names and any other employee identifier used in the workplace of persons who were included in the analysis. The analysis shall also record the basis for any determination that an employee need not be included in post-exposure follow-up because the employee did not have a significant exposure or because a PLHCP determined that the employee is immune to the infection in accordance with applicable public health guidelines. The exposure analysis shall be made available to the local health officer upon request. The name of the person making the determination, and the identity of any PLHCP or local health officer consulted in making the determination shall be recorded.

2. Within a timeframe that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 96 hours of becoming aware of the potential exposure, notify employees who had significant exposures of the date, time, and nature of the exposure.

3. As soon as feasible, provide post-exposure medical evaluation to all employees who had a significant exposure. The evaluation shall be conducted by a PLHCP knowledgeable about the specific disease, including appropriate vaccination, prophylaxis and treatment. For *M. tuberculosis*, and for other pathogens where recommended by applicable public health guidelines, this shall include testing of the isolate from the source individual or material for drug susceptibility, unless the PLHCP determines that it is not feasible.

4. Obtain from the PLHCP a recommendation regarding precautionary removal in accordance with subsection (h)(8), and a written opinion in accordance with subsection (h)(9).

5. Determine, to the extent that the information is available in the employer's records, whether employees of any other employers may have been exposed to the case or material. The employer shall notify these other employers within a time frame that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 72 hours of becoming aware of the exposure incident of the nature, date, and time of the exposure, and shall provide the contact information for the diagnosing PLHCP. The notifying employer shall not provide the identity of the source patient to other employers.

**(7) Information provided to the Physician or Other Licensed Health Care Professional.**

(A) Each employer shall ensure that all PLHCPs responsible for making determinations and performing procedures as part of the medical services program are provided a copy of this standard and applicable public health guidelines. For respirator medical evaluations, the employer shall provide information regarding the type of respiratory protection used, a description of the work effort required, any special environmental conditions that exist (e.g., heat, confined space entry), additional requirements for protective clothing and equipment, and the duration and frequency of respirator use.

(B) Each employer shall ensure that the PLHCP who evaluates an employee after an exposure incident is provided the following information:

1. A description of the exposed employee's duties as they relate to the exposure incident;
2. The circumstances under which the exposure incident occurred;

3. Any available diagnostic test results, including drug susceptibility pattern or other information relating to the source of exposure that could assist in the medical management of the employee; and
4. All of the employer's medical records for the employee that are relevant to the management of the employee, including tuberculin skin test results and other relevant tests for ATP infections, vaccination status, and determinations of immunity.

**(8) Precautionary removal recommendation from the physician or other licensed health care professional.**

(A) Each employer who provides a post-exposure evaluation in accordance with this Section, or an evaluation of an employee's TB conversion in accordance with subsection (h)(3) shall request from the PLHCP an opinion regarding whether precautionary removal from the employee's regular assignment is necessary to prevent spread of the disease agent by the employee and what type of alternate work assignment may be provided. The employer shall request that the PLHCP convey to the employer any recommendation for precautionary removal immediately via phone or fax and that the PLHCP document the recommendation in the written opinion as required in subsection (h)(9).

(B) Where the PLHCP recommends precautionary removal, or where the local health officer recommends precautionary removal, the employer shall maintain until the employee is determined to be noninfectious, the employee's earnings, seniority, and all other employee rights and benefits, including the employee's right to his or her former job status, as if the employee had not been removed from his or her job or otherwise medically limited.

**(9) Written opinion from the physician or other licensed health care professional.**

(A) Each employer shall obtain, and provide the employee with a copy of, the written opinion of the PLHCP within 15 working days of the completion of all medical evaluations required by this section.

(B) For respirator use, the physician's opinion shall have the content required by Section 5144(e)(6) of these orders.

(C) For TB conversions and all RATD and ATP-L exposure incidents, the written opinion shall be limited to the following information:

1. The employee's TB test status or applicable RATD test status for the exposure of concern;
2. The employee's infectivity status;
3. A statement that the employee has been informed of the results of the medical evaluation and has been offered any applicable vaccinations, prophylaxis, or treatment;
4. A statement that the employee has been told about any medical conditions resulting from exposure to TB, other RATD, or ATP-L that require further evaluation or treatment and that the employee has been informed of treatment options; and
5. Any recommendations for precautionary removal from the employee's regular assignment.

(D) All other findings or diagnoses shall remain confidential and shall not be included in the written report.

**California Code of Regulations, Title 8, §5199(j)(3)(B). Aerosol Transmissible Diseases.**

**(j) Recordkeeping.**

**(3) Records of implementation of ATD Plan and/or Biosafety Plan.**

(B) Records of exposure incidents shall be retained and made available as employee exposure records in accordance with Section 3204. These records shall include:

1. The date of the exposure incident;

2. The names, and any other employee identifiers used in the workplace, of employees who were included in the exposure evaluation;
3. The disease or pathogen to which employees may have been exposed;
4. The name and job title of the person performing the evaluation;
5. The identity of any local health officer and/or PLHCP consulted;
6. The date of the evaluation; and
7. The date of contact and contact information for any other employer who either notified the employer or was notified by the employer regarding potential employee exposure.

Violation

Prior to and during the course of the inspection, including but not limited to, on February 16, 2021, the employer failed to develop, implement, and/or maintain effective written procedures for employee exposure incidents in accordance with T8 CCR Section 5199 subsections (h)(6) through (h)(9) in the following instances.

Instance 1: The employer failed to develop a written procedure for employee exposure incidents in accordance with T8 CCR Section 5199 subsections (h)(6) through (h)(9). [Ref. T8 CCR Section 5199(c)(6)(B)]

Instance 2: The employer failed to conduct an exposure analysis, within a timeframe that is reasonable for the coronavirus disease (COVID-19) but in no case later than 72 hours, to determine whether any employees had significant exposure to one or more confirmed COVID-19 cases, including but not limited to, between the months of November 2020 through January 2021. [Ref. T8 CCR Section 5199(h)(6)(C)1.]

Instance 3: The employer failed to notify employees who had a significant exposure to confirmed COVID-19 cases, within 96 hours of becoming aware of the potential exposure that occurred, including but not limited to, between the months of November 2020 through January 2021. [Ref. T8 CCR Section 5199(h)(6)(C)2.]

Instance 4: The employer failed to provide post-exposure medical evaluations as soon as feasible to all employees who had significant exposure to confirmed COVID-19 cases that occurred, including but not limited to, between the months of November 2020 through January 2021. [Ref. T8 CCR Section 5199(h)(6)(C)3.]

Instance 5: The employer failed to obtain from a PLHCP a recommendation regarding precautionary removal of the employee and employees who had a significant exposure to confirmed COVID-19 cases, that occurred, including but not limited to, between the months of November 2020 through January 2021, in accordance with subsection (h)(8), or a written opinion in accordance with subsection (h)(9). [Ref. T8 CCR Section 5199(h)(6)(C)4.]

Instance 6: The employer failed to generate the documentation required by subsection (j)(3)(B) as part of this investigation required by subsection (h)(6)(C). [Ref. T8 CCR Section 5199(j)(3)(B).]

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**August 11, 2021**  
**\$20250.00**

Spencer Wojcik / Wendy Hogle-Lui  
Compliance Officer / District Manager