Citation and Notification of Penalty

To: Smithfield Packaged Meats Corporation
1400 North Weber Avenue
Sioux Falls, SD 57103

Inspection Number: 1472736
Inspection Date(s): 04/20/2020 - 09/02/2020
Issuance Date: 09/08/2020

Inspection Site:
1400 North Weber Avenue
Sioux Falls, SD 57103

The violation described in this Citation and Notification of Penalty is alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty listed herein is based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you either call to schedule an informal conference (see paragraph below) or you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation cited herein, or, if it 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 violation cited herein has been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling 605-361-9566. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation and/or penalty.
If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation and/or proposed penalty within 15 working days after receipt, the citation and the proposed penalty will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

**Penalty Payment** – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on [OSHA Penalty Payment Form](https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334).

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of $25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions do not exist.

**Notification of Corrective Action** – For each violation which you do not contest, you must provide abatement certification to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that abatement documentation is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

**Employer Discrimination Unlawful** – The law prohibits discrimination by an employer against an
employee for filing a complaint or for exercising any rights under this 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 U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.
NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation issued on 09/08/2020. The conference will be held by telephone or at the OSHA office located at 4404 South Technology Drive, Sioux Falls, SD 57106 on ________________ at ________________. Employees and/or representatives of employees have a right to attend an informal conference.
CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Company Name: Smithfield Packaged Meats Corporation
Inspection Site: 1400 North Weber Avenue, Sioux Falls, SD 57103
Issuance Date: 09/08/2020

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: U.S. Department of Labor – Occupational Safety and Health Administration, 4404 South Technology Drive, Sioux Falls, SD 57106

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: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review.
Citation and Notification of Penalty

Company Name: Smithfield Packaged Meats Corporation
Inspection Site: 1400 North Weber Avenue, Sioux Falls, SD 57103

Citation Item 1 Type of Violation: Serious

OSH ACT of 1970 Section 5(a)(1): 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 working in close proximity to each other and were exposed to SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (COVID-19):

(a) Smithfield Packaged Meats Corporation at 1400 North Weber Avenue in Sioux Falls, SD 57103: On or about and at times prior to March 23, 2020, the employer did not develop or implement timely and effective measures to mitigate exposures to the hazard of SARS-CoV-2. Between March 22, 2020, and June 16, 2020, approximately 1,294 employees had tested positive for SARS-CoV-2. Of those employees, approximately 43 were hospitalized and four employees died of complications related to the virus.

Among other methods, recognized and feasible means of abatement for this hazard include:

1. The implementation of proactive social distancing measures to ensure that employee work activities, on and off the production line, allow for at least a six-foot distance between workers and at times, and if a six-foot distance is unattainable, the use of barriers between work stations, in lunchrooms, in break areas, and other common areas such as classrooms and conference rooms. Examples of these measures include:

   a. Providing visual cues such as floor markings and/or signs to remind employees to remain six feet apart from each other. Areas where this would be most effective include areas such as time clocks, locker rooms, the symptom screening area, office areas, breakrooms, the cafeteria, equipment and supply areas and some production areas.
   
   b. Staggering shifts to minimize the number of employees entering or exiting the facility and accessing common areas simultaneously.
   
   c. Staggering break and meal times to minimize the number of employees in common areas at the same time.
   
   d. Expanding or providing additional space for employee use of breakrooms and cafeterias to ensure that employees have adequate room to practice social distancing.
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e. Modifying line speed to enable employees to stand farther apart.
f. Modifying workstation orientation and/or arrangement so that employees do not work directly across from each other where feasible.
g. Installing hardened plastic or other dividers between workstations where employees are not able to practice social distancing where feasible.
h. Installing barriers in common areas where employees are not able to practice social distancing and in areas where employees with fixed workstations may interact with multiple employees on a routine basis (reception areas, security building, Human Resources customer service counter, areas were equipment/supplies are provided to employees, etc.).

2. Require employee use of protective measures including face shields and/or face coverings where employees are not able to practice social distancing onsite.

3. The employer should work with state, local, tribal and/or territorial health officials to facilitate the identification of other exposed and potentially exposed employees at the facility.

4. Screening employees to determine if they are experiencing symptoms associated with being infected with SARS-CoV-2 prior to employees entering the facility. Screening should include:

   a. Implementing federal, state, and local health officials’ guidance regarding evaluation of employee symptoms.
   b. Ensuring employees understand the screening questions.
   c. Ensuring written materials used during the screening process are available in languages that employees understand.

Abatement Note: Although each method is recognized to reduce employee exposure to this hazard, combined implementation of multiple methods is recognized to be most effective.

Abatement Note: Abatement documentation and certification are required for this item (See enclosed “Certification of Corrective Action Worksheet”).

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.
U.S. Department of Labor
Occupational Safety and Health Administration

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ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 09/29/2020
Proposed Penalty: $13494.00

Sheila Stanley
Area Director
INVOICE / DEBT COLLECTION NOTICE

Company Name: Smithfield Packaged Meats Corporation  
Inspection Site: 1400 North Weber Avenue, Sioux Falls, SD 57103  
Issuance Date: 09/08/2020

Summary of Penalties for Inspection Number 1472736
Citation 1, Serious $13494.00
TOTAL PROPOSED PENALTIES $13494.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA’s Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on OSHA Penalty Payment Form. The direct link is https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of $25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.
Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest:** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is two percent (2%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

**Delinquent Charges:** A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

**Administrative Costs:** Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

Sheila Stanley
Area Director

Date: 9/8/2020