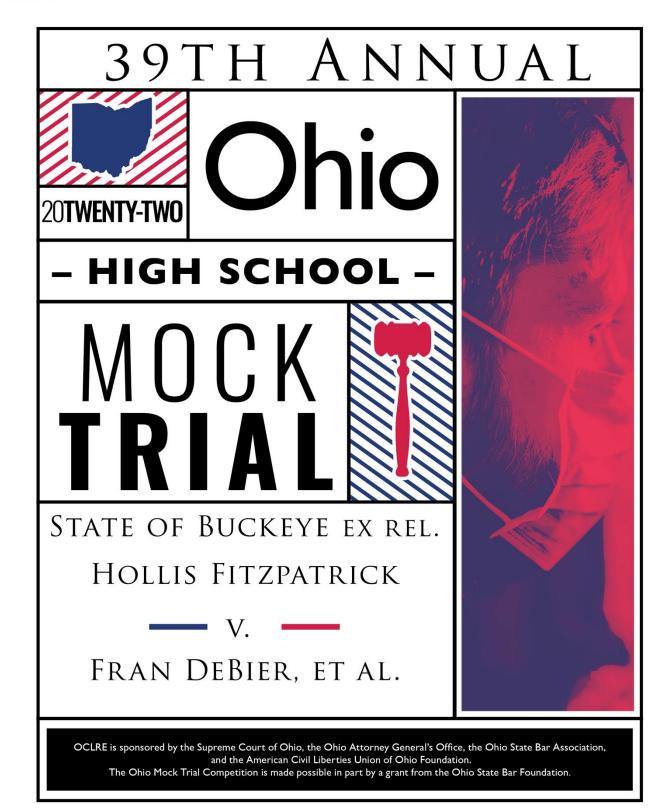


OHIO CENTER FOR LAW-RELATED EDUCATION

Partnering with Teachers to bring Citizenship to Life



Exhibits

<u>Exhibit A (Part 1)</u> Buckeye Health Department Citations – Fitzpatrick's

Buckeye Department of Health and Human Services

FITZPATRICK'S RESTAURANT: Buckeye Health Department Citations and Status Overview

<u>Summary of Penalties</u>: The below chart summarizes the <u>Citation and Notification of Penalty Report</u> (the "Report") issued by Buckeye Health Department to Fitzpatrick's Restaurant ("FITZPATRICK'S) on January 24, 2020. The Report includes a total of [12] violations that can be generally classified as follows: 1) electrical and wiring; 2) flammable liquids; 3) hazardous locations; and 4) plumbing. All 12 violations are "willful," which is the most severe of the 4 types of violation designations.¹ A willful violation is defined as "a violation in which the employer either knowingly failed to comply with a legal requirement (purposeful disregard) or acted with plain indifference to employee safety."²

[Redacted]

¹ The three lesser types of violations are "serious," "repeated," and "other than serious." See <u>https://www.osha.gov/publications/fedrites</u> ² Id.

<u>Exhibit A (Part 2)</u> Buckeye Health Department Citations – Fitzpatrick's

Buckeye Department of Health and Human Services

FITZPATRICK'S RESTAURANT: Buckeye Health Department Citations and Status Overview

General Category	Applicable Citations	Location(s)	Items/Locations in Violation
Electrical and Wiring	29 CFR 1910.106(h)(7)(iii)(a): All electrical wiring and equipment not installed in a manner safe for use in hazardous location	On/ area around reactor vessel R4	 General purpose electrical fixtures, conduit, and wiring methods; The control panel and associated components;
	29 CFR 1910.307(c): Equipment, wiring	L d. D.C.	3) A Baldor Agitator Motor
	methods, and installations of equipment not intrinsically safe/not approved or safe for hazardous location	In the area around reactor R5	1) General purpose electrical fixtures, conduit, and wiring methods;
	for hazardous location		2) A Delta T Air Chiller Model TCAC-B230;
			3) An electrical control panel;
			4) A DuraPulse Frequency Drive
		On/ area around reactor vessel R8	1) General purpose electrical fixtures, conduit, and wiring methods;
			2) An electrical control panel;
			3) The wiring for a Lightnin Agitator Motor
		On/ area around reactor R9	1) General purpose electrical fixtures, conduit, and wiring methods;
			2) A DuraPulse Frequency Drive connected to an electric pump;
			3) A DuraPulse Frequency Drive connected to an electrical control panel;

<u>Exhibit A (Part 3)</u> Buckeye Health Department Citations – Fitzpatrick's

Buckeye Department of Health and Human Services

FITZPATRICK'S RESTAURANT: Buckeye Health Department Citations and Status Overview

-		1	
			4) An electrical control panel;5) The wiring for a Philadelphia Mixer Agitator Motor
		On/ area around reactor S8	1) A DuraPulse Frequency Drive connected to an electric pump;
			2) A Delta T I 44kW Oil Heater Model TI 999CS;
			3) The wiring for a Lightnin Agitator Motor
	29 CFR 1910.307(c): Equipment, wiring methods, and installations of equipment not intrinsically safe/not approved or safe	On/ area around tank S2	1) The electrical fixtures, conduit, and wiring methods;
	for hazardous location		2) A DuraPulse Frequency Drive connected to an electric pump;
			3) A DuraPulse Frequency Drives connected to an IKA mill;
			4) The wiring for an IKA mill;
			5) The wiring for a Proquip Model JL-10 agitator motor;
			6) A Hubbell Electric 30A watertight outlet;
		On/ area around tank S4	1) General purpose electrical fixtures, conduit, and wiring methods;
			2) A Delta T Oil Heater Model Tl075MS;
			3) The wiring for a Proquip Model 1ORGX21 agitator motor;

<u>Exhibit A (Part 4)</u> Buckeye Health Department Citations – Fitzpatrick's

Buckeye Department of Health and Human Services

FITZPATRICK'S RESTAURANT: Buckeye Health Department Citations and Status Overview

		4) The wiring for an IKA mill
29 CFR 1910.106(h)(7)(iii)(c): Improper location/classification of vessel (based upon its flammable liquid capacity)	Area around reactors R4, R5, R8, and R9	1) Locations around reactors, where flammable vapor-air mixtures may exist under abnormal conditions
 29 CFR 1910.307(a)(4): Improper location/classification of electric equipment and wiring (based upon flammable vapors, liquids or gases in location) 29 CFR 1910.307(b): Failure to generate or maintain documentation of hazardous locations throughout facility 	Area around reactors R4, R5, R8, R9 and Emulsion Tanks S2 and S4	1) Locations around Reactors R4, R5, R8, R9 and Emulsion TanksS2 and S4
All plumbing, pipes and equipment not installed in a manner safe for use in location	N/A	Plumbing pipes creating overflow and draining dirty water into sink where produce and salad are prepped which could cause a unsanitary environment.
	Improper location/classification of vessel (based upon its flammable liquid capacity) 29 CFR 1910.307(a)(4): Improper location/classification of electric equipment and wiring (based upon flammable vapors, liquids or gases in location) 29 CFR 1910.307(b): Failure to generate or maintain documentation of hazardous locations throughout facility All plumbing, pipes and equipment not installed in a manner safe for use in	Improper location/classification of vessel (based upon its flammable liquid capacity)R8, and R929 CFR 1910.307(a)(4): Improper location/classification of electric equipment and wiring (based upon flammable vapors, liquids or gases in location)Area around reactors R4, R5, R8, R9 and Emulsion Tanks S2 and S429 CFR 1910.307(b): Failure to generate or maintain documentation of hazardous locations throughout facilityArea around reactors R4, R5, R8, R9 and Emulsion Tanks S2 and S429 CFR 1910.307(b): Failure to generate or maintain documentation of hazardous locations throughout facilityN/A

<u>Exhibit B</u> <u>Buckeye Department of Health Webpage</u>

Buckeye	covidences COVID-19 Resources	Q Search
PUBLIC HEALTH ORDERS	Executive Orders	
PRESS CONFERENCES	August 17, 2020 - <u>Governor's Order for a Statewide Curfew from 10:00 PM to 5:00 AM</u> , to Expire December 8, 2020	
GENERAL RESOURCES	July 23, 2020 - <u>Governor's Order for a Statewide Mask Mandate in All Publicly Accessible</u> Indoor Settings	
COVID-19 CALL CENTER	May 21, 2020 - <u>Governor's Order to Reopen Restaurants, Bars, and Banquet Facilities for</u> <u>Dine-In Service</u>	
	May 15, 2020 - <u>Governor's Order to Reopen Salons, Tattoo Parlors, Barber Shops, Day</u> Spas, Tanning Facilities, and Restaurants for Out-Door Dining	
	May 1, 2020 - <u>Governor's Order to Extend March 22, 2020 Stay-At-Home Order to May</u> 29, 2020	
	April 27, 2020 - <u>Governor's Order to Reopen Dental and Veterinary Offices, Allow</u> Nonessential Health Procedures	
	April 2, 2020 - <u>Governor's Order to Extend March 22, 2020 Stay-At-Home Order to May</u> <u>1, 2020</u>	
	March 22, 2020 - <u>Governor's Stay-At-Home Order</u>	
	March 18, 2020 - <u>Governor's Order to Close Salons, Tattoo Parlors, Barber Shops, Day</u> Spas, and Tanning Facilities	
	March 15, 2020 - <u>Governor's Order to Close Restaurants, Bars, and Banquet Facilities for</u> <u>Dine-In Service</u>	

Screenshot taken April 13, 2021

<u>Exhibit C (Part 1)</u> Buckeye Governor's Order Reopening Restaurants



Fran DeBeir, Governor Ellis Mazakis, Director of Health and Human Services

GOVERNOR'S ORDER TO REOPEN RESTAURANTS, BARS, AND BANQUET FACILITIES FOR DINE-IN SERVICE

I, Fran DeBeir, Governor of the State of Buckeye, pursuant to the authority granted to me by the Buckeye Revised Code, Order the following to prevent the spread of COVID-19 into the State of Buckeye:

1. Restaurants, Bars, and Banquet Facilities to reopen. All restaurants, bars, and banquet facilities and other like businesses and operations in the State, which have onsite consumption of food, beer, wine and liquor, are permitted to reopen for full, dine-in service within the State so long as all workplace safety standards are met. These businesses and operations are encouraged to reopen. Businesses and operations shall continue to comply with Social Distancing requirements as defined in this Order.

2. Mandatory Standards for Businesses and Employees

- a. Businesses must close in-person dining no later than 6:00 p.m. Takeout and delivery orders may continue beyond that time.
- b. Businesses must discontinue the use of physical menus for individual guests. QR codes and poster/chalkboard menu displays are permitted alternatives.
- c. Ensure minimum of six feet between employees and increase the frequency of surface cleaning, handwashing, sanitizing and monitor compliance.
- d. Businesses must allow all customers, patrons, visitors, contractors, vendors and similar individuals to use facial coverings, except for specifically documented legal, life, health or safety considerations and limited documented security considerations.
- e. Businesses must require all employees to wear facial coverings, except for one of the following reasons:
 - i. Facial coverings in the work setting are prohibited by law or regulation.
 - ii. Facial coverings are in violation of documented industry standards.
 - iii. Facial coverings are not advisable for health reasons.
 - iv. Facial coverings are in violation of the business's documented safety policies.
 - v. Facial coverings are not required when the employee works alone in an assigned work area.
 - vi. There is a functional (practical) reason for an employee not to wear a facial covering in the workplace.

(Businesses must provide written justification to local health officials, upon request, explaining why an employee is not required to wear a facial covering in the workplace. At minimum, facial coverings (masks) should be cloth/fabric and cover an individual's nose, mouth, and chin.)

- f. Employees must perform daily symptom assessment.
- g. Require employees to stay at home if symptomatic and perform daily symptom assessment requirements before returning to work.
- Provide approved COVID-19 education, as soon as possible. Add COVID-19 symptoms to the current standard Health Agreement required by the food safety code.
- i. Require regular handwashing by employees.

<u>Exhibit C (Part 2)</u> Buckeye Governor's Order Reopening Restaurants



- j. Maintain compliance with BDHHS sanitation and food safety regulations.
- k. Limit number of employees allowed in break rooms at the same time and practice social distancing. Maximum to be current group size per state guidelines (currently 10).
- 1. Banquet and catering facilities/services must not serve more than 300 guests at one time.

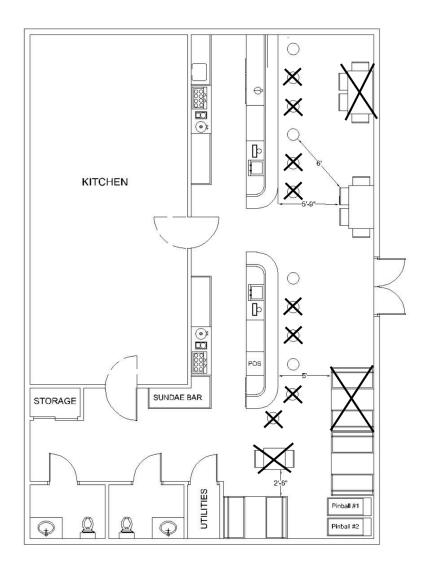
3. Mandatory Standards for Guests

- a. Ensure a minimum of six feet between parties waiting and when dining
- b. Post a list of COVID-19 symptoms in a conspicuous place.
- c. Ask customers and guests not to enter if symptomatic.
- d. Require guests to wear a face covering, over their nose and mouth, when not seated.
- e. Provide access to hand washing methods while in the food service establishment, and if possible, place approved hand washing/sanitizing products in high-contact areas.
- f. Food service establishments offering dine-in service must take affirmative steps with customers to achieve safe social distancing guidelines.

4. Mandatory Standards for Physical Spaces

- a. Businesses must reduce capacity to 50% of their normal capacity limit, including staff and customers.
 - Establish and post maximum dining area capacity using updated COVID-19 compliant floor plans. With maximum party size per state guidelines (currently 10.)
- b. Post a kitchen floor plan, establishing safe social distancing guidelines and following established state health dept guidance for masks and gloves.
- c. Businesses must install plexiglass between tables and counter seating.
- d. Every other table must remain empty with a minimum of six feet of clearance between all tables.
- e. Daily cleaning for the entire establishment. Clean and sanitize tabletops and chairs between seatings. Clean all high touch areas every two hours, and more frequently as needed (e.g. door handles; light switches; phones, pens, touch screens.)
- f. Provide approved hand washing/sanitizing products in common areas.
- g. When appropriate, establish ordering areas and waiting areas with clearly marked safe distancing and separations per individual/social group for both restaurant and bar service.
- h. Remove self-service, table, and common area items (e.g. table tents, vases, lemons, straws, stir sticks, condiments.)
- i. Salad bars and buffets are permitted if served by staff with safe six feet social distancing between parties.
- Self-service buffets and product samples are prohibited, but self-service beverage is permitted.
- k. Private dining and bar seating areas within a foodservice establishment must follow all approved safe social distancing guidelines.
- 1. Open, congregate areas in restaurants and bars (for billiards, card playing, video games, arcade games, dancing, entertainment) may be open but must follow social distancing and sanitation guidelines.

Exhibit D Diagram of Fitzpatrick's – With Pandemic Restrictions





<u>Exhibit E</u> <u>1st Letter from Buckeye Department of Health</u>

Buckeye Department of Health and Human Services

Notice of Request: Received and Denied

Notice Date: 6/29/2020

Hollis Fitzpatrick 5463 Cardinal Run Harmony, BY 1234

Your request for a hearing regarding exemptions from the state mandated COVID-19 safety protocols has been received and subsequently denied. There is currently no policy regarding exemptions.

<u>Exhibit F</u> <u>Transcript of Governor DeBier's October 28 Press Conference</u>



October 28, 2020

[Redacted]

Governor:

We have seen tremendous support for local businesses, especially in the food service industry. I was talking with some close friends who own a small restaurant right here in Harmony, and they brought to my attention the need for an exemption process for some of the restrictions on local businesses. We acted quickly and efficiently to protect the lives of Buckeyes, but we know now that blanket regulations are not always the best course of action. We need a degree of flexibility in our approach that still protects the health of our citizens but also allows for other safe operating procedures. For example, my friends over at the Rural Meijer Pint House, where Mack and I love to go, have quite a large space with high ceilings and greater air flow. A space like this lessens the need for strict capacity limits and stringent distancing guidelines. This is why I have worked with Ellis Mazakis and the Health Department to create a new system to process requests for exemptions from the existing COVID-19 guidelines for local businesses. We know there are other restaurants, other businesses out there where distancing or capacity guidelines may not be necessary. On November 2, we will be launching a new system to process exemption requests for situations like these.

[Redacted]

<u>Exhibit G</u> <u>2nd Letter from Buckeye Department of Health</u>

Buckeye Department of Health and Human Services

Application Status: Pending Additional Information

Notice Date: 12/9/2020

Hollis Fitzpatrick 5463 Cardinal Run Harmony, BY 1234

Your application seeking exemptions from the state mandated COVID-19 safety protocols has been received. Application status is PENDING. Please provide additional information outlining your reason for seeking exemptions. Include all relevant information related to ventilation, air flow, or other infrastructure that would allow your business to safely operate without the state mandated safety protocols.