

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Fresno District Office
2550 Mariposa Street, Room 4000
Fresno, CA 93721
Phone: (559) 445-5302 Fax: (559) 445-5786

Inspection #: 1489768
Inspection Dates: 08/25/2020 - 01/06/2021
Issuance Date: 01/06/2021
CSHO ID: V4970
Optional Report #: 015-21

**Citation and Notification of Penalty**

Company Name: State of California, Dept. of Corrections - Avenal State Prison

Establishment DBA:

and its successors

Inspection Site: #1 Kings Way
Avenal, CA 93204

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

California Code of Regulations, Title 8, 5199(d) (1), Aerosol Transmissible Diseases

(d) Aerosol Transmissible Diseases Exposure Control Plan.

(1) The employer shall establish, implement, and maintain an effective, written ATD Exposure Control Plan (Plan) which is specific to the work place or operation(s), and which contains all of the elements in subsection (d) (2).

REFERENCE:

California Code of Regulations, Title 8, 5199(d) (2), Aerosol Transmissible Diseases

(2) The Plan shall contain all of the following elements:

(A) The name(s) or title(s) of the person(s) responsible for administering the Plan. This person shall be knowledgeable in infection control principles and practices as they apply to the facility, service or operation.

(B) A list of all job classifications in which employees have occupational exposure.

(C) A list of all high hazard procedures performed in the facility, service or operation, and the job classifications and operations in which employees are exposed to those procedures.

(D) A list of all assignments or tasks requiring personal or respiratory protection.

(E) The methods of implementation of subsections (e), (g), (h), (i) and (j) as they apply to that facility, service or work operation. Specific control measures shall be listed for each operation or work area in which occupational exposure occurs. These measures shall include applicable engineering and work practice controls, cleaning and decontamination procedures, and personal protective equipment and respiratory protection. In establishments where the Plan pertains to laboratory operations, it also shall contain the methods of implementation for subsection (f), unless those operations are included in a Biosafety Plan.

(F) A description of the source control measures to be implemented in the facility, service or operation, and the method of informing people entering the work setting of the source control measures.

(G) The procedures the employer will use to identify, temporarily isolate, and refer or transfer AirID cases or suspected cases to All rooms, areas or facilities. These procedures shall include the methods the employer will use to limit employee exposure to these persons during periods when they are not

in airborne infection isolation rooms or areas. These procedures shall also include the methods the employer will use to document medical decisions not to transfer patients in need of All in accordance with subsection (e)(5)(B).

(H) The procedures the employer will use to provide medical services, including recommended vaccinations and follow-up, as required in subsection (h). This shall include the procedures the employer will use to document the lack of availability of a recommended vaccine.

(I) The procedures for employees and supervisors to follow in the event of an exposure incident, including how the employer will determine which employees had a significant exposure, in accordance with subsections (h)(6) through (h)(9).

(J) The procedures the employer will use to evaluate each exposure incident, to determine the cause, and to revise existing procedures to prevent future incidents.

(K) The procedures the employer will use to communicate with its employees and other employers regarding the suspected or confirmed infectious disease status of persons to whom employees are exposed in the course of their duties, in accordance with subsection (h).

(L) The procedures the employer will use to communicate with other employers regarding exposure incidents, including procedures for providing or receiving notification to and from health care providers about the disease status of referred or transferred patients, in accordance with subsection (h).

(M) The procedures the employer will use to ensure that there is an adequate supply of personal protective equipment and other equipment necessary to minimize employee exposure to ATPs, in normal operations and in foreseeable emergencies.

(N) The procedures the employer will use to provide initial and annual training in accordance with subsection (i) to employees in job categories identified in subsection (d)(2)(B).

(O) The procedures the employer will use for recordkeeping, in accordance with subsection (j).

(P) An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed in their respective work areas or departments in accordance with subsection (d)(3).

(Q) Surge procedures. Employers of employees who are designated to provide services in surge conditions, and employers of employees who are designated to provide services to persons who have been contaminated as the result of a release of a biological agent as described in subsection (a)(1)(B), shall include procedures for these activities in the plan. The plan shall include work practices, decontamination facilities, and appropriate personal protective equipment and respiratory protection for such events. The procedures shall include how respiratory and personal protective equipment will be stockpiled, accessed or procured, and how the facility or operation will interact with the local and regional emergency plan.

VIOLATION

Prior to and during the course of the inspection (investigation), including, but not limited to, on August 25, 2020, the employer failed to maintain an effective written Aerosol Transmissible Disease (ATD) Exposure Control Plan. The ATD Exposure Control Plan was missing workplace specific elements.

Instance 1

The employer's plan did not list all job classifications in which employees have occupational exposure.

Instance 2

The employer's plan did not list all assignments or tasks requiring personal or respiratory protection.

Instance 3

The employer's plan did not contain procedures for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed in their respective work areas or departments.

Instance 4

The employer's plan did not include specific procedures for transfer of patients needing airborne infection isolation.

Instance 5

The employer did not establish specific procedures within the ATD Exposure Control Plan (Plan) to cover employees who are assigned to provide custodial duties for inmates who are transferred for medical treatment at community hospitals premises.

Instance 6

The employer's procedures for investigation and follow-up for exposure incidents do not include investigation of exposures for all employees who may have been exposed to the Covid-19 infected person or suspected infected person. The plan includes criteria that are not consistent with public health guidelines for each specific disease, and impose limits not included in the guidelines for determining which employees may have been exposed to the infected person or suspected infected person. The Plan also does not include procedures to receive information from community health care providers regarding the infectious disease status of patients transferred to those facilities.

THIS CITATION AMENDS CITATION

NO.1 ISSUED ON 01/06/2021 TO CORRECT ITEMS NO. 1.

ALL OTHER ITEMS OF THE CITATION AND PENALTY REMAIN UNCHANGED AND EFFECTIVE.

THIS AMENDED CITATION SHALL BE POSTED WITH THE ORIGINAL CITATION FOR AT LEAST THREE WORKING DAYS OR UNTIL THE VIOLATIVE CONDITION IS ABATED, WHICHEVER IS LONGER.

Date By Which Violation Must be Abated:

01/13/2021

Proposed Penalty:

\$14400.00

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

California Code of Regulations, Title 8, 5199(e) (1), Aerosol Transmissible Diseases

(e) Engineering and Work Practice Controls, and Personal Protective Equipment.

(1) General. Employers shall use feasible engineering and work practice controls to minimize employee exposures to ATPs. Where engineering and work practice controls do not provide sufficient protection (e.g., when an employee enters an All room or area) the employer shall provide, and ensure that employees use, personal protective equipment, and shall provide respiratory protection in accordance with subsection (g) to control exposures to Air IPs.

VIOLATION

Prior to and during the course of the inspection (investigation), including, but not limited to, on August 25, 2020, the employer failed to implement and/or enforce work practice controls to minimize exposure to the Coronavirus (COVID-19) amongst employees. Inmates were not wearing cloth face coverings while in a dorm setting in accordance with the CDCR April 16, 2020 memorandum.

Date By Which Violation Must be Abated:

01/13/2021

Proposed Penalty:

\$10800.00

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Inspection Site: #1 Kings Way
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Citation 3 Item 1 Type of Violation: **Serious**

California Code of Regulations, Title 8, 5199(g) (2), Aerosol Transmissible Diseases
(g) Respiratory Protection.

(2) Each employer who has any employee whose occupational exposure is based on entering any of the work settings or performing any of the tasks described in subsection (g) (4) shall establish, implement and maintain an effective written respiratory protection program that meets the requirements of Section 5144 of these orders, except as provided in subsections (g) (5) and (g) (6).

VIOLATION

Prior to and during the course of the inspection (investigation), including, but not limited to, on August 25, 2020, the employer did not establish and implement a written respiratory protection program that meet the requirements of Section 5144 except as provided in 5199(g)(5) and 5199(g)(6). The employer's existing written respiratory protection program lacked worksite specific procedures as referenced by Section 5144(c) (1).

Instance 1

The employer did not fit test employees who were required to wear N95 filtering face piece respirators at the facility. Reference 5199(g) (6), 5144(f) (4) through 5144(f) (8), 5144(c) (1) (C).

Instance 2

The employer failed to fit test employees required to wear tight fitting N95 respirators while performing custodial duties for inmates transferred to community hospitals. Reference 5199(g) (6).

Instance 3

The employer did not establish and implement written respiratory protection procedures for maintenance and care of respirators. The employer's written program instructed employees to re-use filtering face piece respirators but did not specify appropriate procedures for reusing them in accordance with 5144(h). Reference 5144(c) (1) (E).

REFERENCE:

California Code of Regulations, Title 8, 5144(c) (1), Respiratory Protection

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator. The Small Entity Compliance Guide contains criteria for the selection of a program administrator and a sample program that meets the requirements of this subsection. Copies of the Small Entity Compliance Guide will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210 (202-219-4667).

(1) In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable:

- (A) Procedures for selecting respirators for use in the workplace;
- (B) Medical evaluations of employees required to use respirators;
- (C) Fit testing procedures for tight-fitting respirators;
- (D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
- (E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;
- (F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;
- (G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;
- (H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and
- (I) Procedures for regularly evaluating the effectiveness of the program.

THIS CITATION AMENDS CITATION

NO. 3 ISSUED ON 01/06/2021 TO CORRECT ITEMS NO. 1.

ALL OTHER ITEMS OF THE CITATION AND PENALTY REMAIN UNCHANGED AND EFFECTIVE.

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01/13/2021

Proposed Penalty:

\$14400.00

Devon Benbrook
Compliance Officer /

Jan Hami
District Manager