

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
San Diego District Office
7575 Metropolitan Drive, Suite 207
San Diego, CA 92108
Phone: (619) 767-2280 Fax: (619) 767-2299

Inspection #: 1495691
Inspection Dates: 10/05/2020 - 08/23/2021
Issuance Date: 08/23/2021
CSHO ID: U5815
Optional Report #: 9-21



Citation and Notification of Penalty

Company Name: California Department of Corrections and Rehabilitation
Establishment DBA: Richard J Donovan Correctional Facility
and its successors
Inspection Site: 480 Alta Road
San Diego, CA 92179

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

342(a):Reporting Work-Connected Fatalities and Serious Injuries. Every employer shall report immediately by telephone or telegraph to the nearest District Office of 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.

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.

The employer failed to immediately report to the Division the serious illness of an employee who fell ill of COVID-19 that occurred at its workplace or in connection with the employee's work and was hospitalized with COVID-19 on or about December 29th, 2020. The employee died on Jan. 11th, 2021.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$5000.00

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

14300.40(a): T8CCR §14300.40(a):

§14300.40. Providing Records to Government Representatives.

(a) Basic requirement. When an authorized government representative asks for the records you keep under the provisions of this article, you must provide within four (4) business hours, access to the original recordkeeping documents requested as well as, if requested, one set

14300.40(a):

(a) Basic requirement. Each employer required by this article to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

- (1) Is work-related; and
- (2) Is a new case; and
- (3) Meets one or more of the general recording criteria of Section 14300.7 or the application to specific cases of Section 14300.8 through Section 14300.12.

The employer failed to record aerosol transmissible diseases, including COVID-19 related illnesses of employees while working at its workplace or in connection with work, on the OSHA Form 300 in the following instances:

Instance 1: An Employee who fell ill and tested positive for COVID-19 on or about December 18, 2020.

Instance 2: An Employee who fell ill and tested positive for COVID-19 on or about December 23, 2020, was hospitalized on December 29, 2020, and died on January 11, 2021.

Date By Which Violation Must be Abated:
Proposed Penalty:

September 24, 2021
\$400.00

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

5199(j)(3)(B): Citation 1 Item 1 Type of Violation: Regulatory
 T8CCR 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.

Prior to and during the course of the inspection, including, but not limited to, on October 5, 2020, the employer's records of exposure incidents involving occupational exposure to pathogens such as SARS-CoV-2, the virus that causes COVID-19, lacked these required elements:

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; or
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.

Date By Which Violation Must be Abated:

September 24, 2021

Proposed Penalty:

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

5199(d)(1): California Code of Regulations Title 8. 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

Title 8 section 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.

(3) The ATD Plan shall be reviewed at least annually by the program administrator, and by employees regarding the effectiveness of the program in their respective work areas. Deficiencies found shall be corrected. The review(s) shall be documented in writing, in accordance with subsection (j)(3)(A).

Prior to and during the course of the inspection, including but not limited to, on October 5, 2020, the employer failed to establish, implement, and maintain an effective written Aerosol Transmissible Disease (ATD) Exposure Control Plan in accordance with this section. The ATD Exposure Control Plan was missing workplace specific elements.

Instance 1: The employer's written procedures for aerosol transmissible diseases did not include a list of all job classifications in which employees have occupational exposure in accordance with subsection (d)(2)(B).

Instance 2: The employer's written procedures for aerosol transmissible diseases did not include 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 in accordance with subsection (d)(2)(C).

Instance 3: The employer did not have a list of all assignments or tasks requiring personal or respiratory protection in accordance with subsection (d)(2)(D).

Instance 4: The employer failed to establish and implement effective procedures in its ATD Exposure Control Plan for the investigation of exposure incidents, including incidents involving pathogens such as SARS-Cov-2, the virus that causes COVID-19. The program did not include procedures for determining which employees had significant exposures to such pathogens; for employee notification; to evaluate each incident, determine its cause, and revise existing procedures to prevent or mitigate future incidents; or for medical follow-up to be given to those involved in such exposure incidents in accordance with subsection(d)(2)(I),(J).

Instance 5: The employer's written ATD Exposure Control Plan lacked effective procedures 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 in accordance with subsection (d)(2)(M).

Instance 6: The employer's written procedures for aerosol transmissible diseases was not reviewed at least annually in accordance with (d)(3).

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

5199(g): (g) Respiratory Protection.

(1) Respirators provided for compliance with this section shall be approved by NIOSH for the purpose for which they are used.

(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).

(3) Respirator selection.

(A) Where respirator use is required for protection against potentially infectious aerosols and is not required to meet the requirements of subsections (g)(3)(B) or (g)(3)(C), the employer shall provide a respirator that is at least as effective as an N95 filtering facepiece respirator, unless the employer's evaluation of respiratory hazards determines that a more protective respirator is necessary, in which case the more protective respirator shall be provided.

REFERENCE:

(g)(4) The employer shall provide, and ensure that employees use, a respirator selected in accordance with subsection (g)(3) and Section 5144 when the employee:

(A) Enters an All room or area in use for All;

(B) Is present during the performance of procedures or services for an AirlD case or suspected case;

(C) Repairs, replaces, or maintains air systems or equipment that may contain or generate aerosolized pathogens;

(D) Is working in an area occupied by an AirlD case or suspected case, during decontamination procedures after the person has left the area and as required by subsection (e)(5)(D)9;

(E) Is working in a residence where an AirlD case or suspected case is known to be present;

(F) Is present during the performance of aerosol generating procedures on cadavers that are suspected of, or confirmed as, being infected with aerosol transmissible pathogens;

(G) Is performing a task for which the Biosafety Plan or Exposure Control Plan requires the use of

respirators; or

(H) Transports an AirID case or suspected case within the facility or in an enclosed vehicle (e.g., van, car, ambulance or helicopter) when the patient is not masked.

...

REFERENCE:

(6) Fit testing.

(A) The employer shall perform either quantitative or qualitative fit tests in accordance with the procedures outlined in Appendix A of Section 5144, Respiratory Protection, of these orders. The fit test shall be performed on the same size, make, model and style of respirator as the employee will use. When quantitative fit testing is performed, the employer shall not permit an employee to wear a filtering facepiece respirator or other half-facepiece respirator, unless a minimum fit factor of one hundred (100) is obtained. When fit testing single use respirators, a new respirator shall be used for each employee.

(B) The employer shall ensure that each employee who is assigned to use a filtering facepiece or other tight-fitting respirator passes a fit test:

1. At the time of initial fitting;
2. When a different size, make, model or style of respirator is used; and
3. At least annually thereafter.

VIOLATION

Prior to and during the course of the inspection, including but not limited to, on October 5, 2020, the employer failed to ensure that employees use respirators in accordance with subsection (g)(3) and Section 5144 of the Respiratory Protection standard, in the following instances:

Instance 1: The employer failed to have effective respirator protection procedures, in that some correctional officers that performed escort while inmate-patients who were COVID-19 positive or suspected of being COVID-19 positive, were in medical unit, were not provided with correctly fitted N95's. [Reference (5199)(g)(4)(G)]

Instance 2: The employer failed to have effective respirator protection procedures, in that several employees did not have proper respiratory protection when they worked with inmates with or suspected of being COVID-19 positive, who were transported or escorted during rides in enclosed vehicles, or for employees who entered isolation areas or units, with inmates who were COVID-19 positive or suspected of being COVID-19 positive. [Reference 5199 (g)(4)(H)]

Instance 3: The employer failed to ensure employees assigned the use of a respirator were fit tested for the size, make, model and style of the respirator to be worn, prior to usage, to protect against exposure to COVID-19. [Reference (5199)(g)(6)]

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

CCR 5199. Aerosol Transmissible Diseases.

5199(h)(6)(C):

(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.

Prior to and during the course of inspection, including but not limited to, on October 5th, 2020, the employer failed to conduct exposure analyses of incidents involving occupational exposure to pathogens such as SARS-Cov-2, the virus that causes COVID-19.

Instance 1:

The employer failed to conduct an analysis required under Title 8, 5199(h)(6)(C)(1) for employees at its workplace that may have been exposed to a confirmed or suspected case of COVID-19 in order to determine which employees had significant exposures.

Instance 2:

The employer failed to notify employees who had significant exposures to COVID-19 within 96 hours of becoming aware of the potential exposure. [5199(h)(6)(C)(2)]

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

5199(i): (i) Training.

- (1) Employers shall ensure that all employees with occupational exposure participate in a training program.
- (2) Employers shall provide training as follows:
 - (A) At the time of initial assignment to tasks where occupational exposure may take place;
 - (B) At least annually thereafter, not to exceed 12 months from the previous training;
 - (C) For employees who have received training on aerosol transmissible diseases in the year preceding the effective date of the standard, only training with respect to the provisions of the standard that were not included previously need to be provided.
 - (D) When changes, such as introduction of new engineering or work practice controls, modification of tasks or procedures or institution of new tasks or procedures, affect the employee's occupational exposure or control measures. The additional training may be limited to addressing the new exposures or control measures.
- (3) Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.
- (4) The training program shall contain at a minimum the following elements:
 - (A) An accessible copy of the regulatory text of this standard and an explanation of its contents.
 - (B) A general explanation of ATDs including the signs and symptoms of ATDs that require further medical evaluation.
 - (C) An explanation of the modes of transmission of ATPs or ATPs-L and applicable source control procedures.
 - (D) An explanation of the employer's ATD Exposure Control Plan and/or Biosafety Plan, and the means by which the employee can obtain a copy of the written plan and how they can provide input as to its effectiveness.
 - (E) An explanation of the appropriate methods for recognizing tasks and other activities that may expose the employee to ATPs or ATPs-L.
 - (F) An explanation of the use and limitations of methods that will prevent or reduce exposure to ATPs or ATPs-L including appropriate engineering and work practice controls, decontamination and disinfection procedures, and personal and respiratory protective equipment.

(G) An explanation of the basis for selection of personal protective equipment, its uses and limitations, and the types, proper use, location, removal, handling, cleaning, decontamination and disposal of the items of personal protective equipment employees will use.

(H) A description of the employer's TB surveillance procedures, including the information that persons who are immune-compromised may have a false negative test for LTBI.

(I) Training meeting the requirements of Section 5144(k) of these orders for employees whose assignment includes the use of a respirator.

(J) Information on the vaccines made available by the employer, including information on their efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge.

(K) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available, and post-exposure evaluation.

Violation:

Prior to and during the course of the inspection, including but not limited to October 5, 2020, the employer did not ensure that correctional officers that performed escort of inmate-patients who were COVID-19 positive or suspected of being COVID-19 positive, participate in a training program meeting the minimum requirements of this standard.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$9000.00

Luis Mireles / Kathy Derham
Compliance Officer / District Manager