

**BEFORE THE  
STATE OF CALIFORNIA  
OCCUPATIONAL SAFETY AND HEALTH  
APPEALS BOARD**

In the Matter of the Appeal of:

**STATE OF CALIFORNIA, DEPARTMENT OF  
CORRECTIONS & REHABILITATION  
dba SAN QUENTIN STATE PRISON  
1515 S STREET  
SACRAMENTO, CA 95811**

Inspection Number  
**1480866**

**SETTLEMENT ORDER**

**Employer**

The above-entitled matter is resolved pursuant to this Order and as set forth in the attached Summary Table.

The parties have entered into the following stipulations:

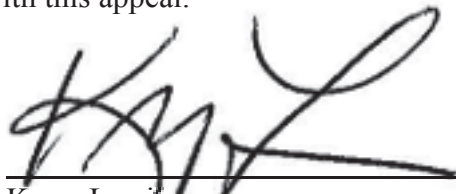
- 1) Within 60 calendar days of the issuance of a final order confirming this agreement, any fit testing of employees for N95 masks that is currently outstanding will be completed, except where: (1) an employee is unavailable due to a long term leave of some kind, in which circumstance CDCR agrees the employee will be fit tested within 5 business days of returning to work; or (2) an employee requests a reasonable accommodation that requires CDCR and the employee to engage in an interactive process.
- 2) Employees shall not be permitted to work in or occupy any area that would expose them to a respiratory hazard without first being provided with appropriate personal protective equipment (PPE). All persons awaiting fit testing for an N95 or unable to wear an N95 shall be accommodated through administrative controls or provided appropriate personal protective equipment.
- 3) Beginning the week of July 22, 2022, the California Department of Corrections and Rehabilitation (CDCR), including representatives from California Correctional Health Care Services (CCHCS), will meet weekly with State of California Department of Industrial Relations, Division of Occupational Safety and Health (Division) to expedite the completion of CDCR's Model Aerosol Transmissible Disease (ATD) Exposure Control Plan (ECP), including measures involving airborne infection isolation and housing of cases or suspected cases requiring airborne infection isolation. This meeting will be in addition to any requirements outlined in the Long Term Abatement Agreement signed by the parties on March 22, 2022.
  - a.) Following approval of the Model Plan, CDCR, including representatives from California Correctional Health Care Services, will meet with the Division no less than once each month until ATD ECP implementation and training at the local level of each Institution, Facility, and Office is complete.
  - b.) San Quentin will provide its revised ATD plan in compliance with the Long Term Abatement Agreement within 30 days of finalization of the Model Plan.

- c.) CDCR will give the finalization of the San Quentin local plan high priority and meet with the Division as necessary to expedite its completion. Pursuant to the Long Term Abatement Agreement entered into by the parties on March 22, 2022, CDCR (San Quentin) agrees to complete the Long Term Abatement process in its entirety no later than December 15, 2022.
- 4) On or about August 1, 2022, CDCR will appoint an Assistant Director to manage the Health and Safety Program. The Health and Safety Program addresses communicable diseases in the workplace, develops and distributes educational material on prevention and is the key Department contact with CCHCS on all occupational and public health issues that cross departmental or inmate/staff lines. The appointed Assistant Director will oversee the ATD ECP discussions and will have the responsibility to ensure implementation Department-wide and at the local level of each Institution, Facility, and Office.
- a.) For a period of 12 months after appointment of the Assistant Director, he/she shall meet with the Chief of the Division or his/her designee at the request of either party to discuss any matters relevant to worker health and safety, including discussing the possibility of conducting any educational outreach by the Division to CDCR management and staff. The Assistant Director will work with the designated Division representative during this period to ensure that any hazards identified during this period are corrected promptly, independent of any proceedings before the Appeals Board.
- b.) The Assistant Director over the Health and Safety Program will assess the need to identify and hire (if necessary) any personnel required to fully implement the requirements of California Code of Regulations, Title 8, Section 5199.
- 5) Nothing in this agreement shall be construed to limit the Division from assessing any fines or penalties as may otherwise be provided by law.
- 6) It is stipulated by and between the parties that the terms and conditions set forth in the above-described agreement are not intended to be and shall not be construed by anyone or any proceeding as an admission of negligence, fault, or wrongdoing whatsoever by Employer (CDCR hereinafter referred to as Employer).
- 7) It is further stipulated by and between the parties that neither Employer's agreement to settle this matter, nor any statement contained in this agreement, shall be admissible in any other proceeding, either legal, equitable, or administrative, except for purposes of administration and enforcement of the California Occupational Safety and Health Act and in proceedings before the Appeals Board.
- 8) It is further stipulated by and between the parties that no findings or conclusions have been made by any trier-of-fact regarding the citations and fines issued herein.

- 9) Employer agrees to waive any right it might have pursuant to Labor Code section 149.5 or Title 8, California Code of Regulations, section 397, to petition for or recover costs and fees, if any, incurred in connection with this appeal.

***IT IS SO ORDERED.***

Dated: 07/11/2022

  
\_\_\_\_\_  
Kerry Lewis  
Administrative Law Judge

Pursuant to California Code of Regulations, title 8, section 364.2, subdivision (e), employer shall post for 30 working days a copy of the Settlement Order. Posting shall be in a manner as prescribed in Section 356, subdivision (a).

Pursuant to California Code of Regulations, title 8, section 364.2, subdivision (d), the division shall serve a copy of this disposition on any authorized person representing affected employees if known.

NOTE: If you disagree with this order, you may petition the Appeals Board for reconsideration within 30 days. The petition must comply with the requirements of Labor Code sections 6614 through 6619. Please call the Appeals Board at (916) 274-5751 if you need assistance.

## SUMMARY TABLE

### OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

In the Matter of the Appeal of:  
**STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS &  
 REHABILITATION dba SAN QUENTIN STATE PRISON**

Inspection No.  
**1480866**

Citation Issuance Date: **02/01/2021**

CITATION	ITEM	SECTION	TYPE	CITATION/ITEM RESOLUTION	AFFIRMED	VACTED	PENALTY PROPOSED BY DOSH IN CITATION	FINAL PENALTY ASSESSED
1	1	342 (a)	R	Citation and penalty remain as issued.	A		\$5,000.00	<b>\$5,000.00</b>
1	2	3203 (a)	G	Citation and penalty remain as issued.	A		\$1,910.00	<b>\$1,910.00</b>
1	3	3225 (a)	G	Citation and penalty remain as issued.	A		\$475.00	<b>\$475.00</b>
1	4	3366 (d)	G	Citation and penalty remain as issued.	A		\$475.00	<b>\$475.00</b>
1	5	5199 (f)	G	Citation and penalty remain as issued.	A		\$475.00	<b>\$475.00</b>
2	1	3395 (c)	S	Citation and penalty remain as issued.	A		\$5,735.00	<b>\$5,735.00</b>
3	1	5162 (c)	S	Citation and penalty remain as issued.	A		\$5,735.00	<b>\$5,735.00</b>
4	1	5193 (c)(1)(B)	S	Citation and penalty remain as issued.	A		\$11,475.00	<b>\$11,475.00</b>
5	1	5193 (d)(4)	S	Citation and penalty remain as issued.	A		\$7,650.00	<b>\$7,650.00</b>
6	1	5199 (d)(2)	WS	Based on info from Er, DOSH <b>reclassified as S (removed Willful)</b> . Penalty reduced.	A		\$90,000.00	<b>\$70,000.00</b>
7	1	5199 (e)	WS	Based on info from Er, DOSH <b>reclassified as S (removed Willful)</b> . Penalty reduced.	A		\$90,000.00	<b>\$25,000.00</b>
8	1	5199 (g)	WS	Based on info from Er, DOSH <b>reclassified as S (removed Willful)</b> . Penalty reduced.	A		\$90,000.00	<b>\$25,000.00</b>
9	1	5199 (h)	WS	Based on info from Er, DOSH <b>reclassified as S (removed Willful)</b> . Penalty reduced.	A		\$90,000.00	<b>\$70,000.00</b>
10	1	5199 (i)	S	Citation and penalty remain as issued.	A		\$22,950.00	<b>\$22,950.00</b>
<b>Sub-Total</b>							\$421,880.00	<b>\$251,880.00</b>
<b>Total Amount Due*</b>								<b>\$251,880.00</b>

\*You may owe more than this amount if you did not appeal one or more citations or items containing penalties.  
 Please call 415-703-4310 or email [AccountingCALOSHA@dir.ca.gov](mailto:AccountingCALOSHA@dir.ca.gov) if you have any questions.

*Abbreviation Key:*

G=General	R=Regulatory	Er=Employer	
S=Serious	W=Willful	Ee=Employee	A/R=Accident Related
RG=Repeat General	RR=Repeat Regulatory	RS=Repeat Serious	

**PENALTY PAYMENT INFORMATION**

1. Please make your cashier's check, money order, or company check payable to:  
**Department of Industrial Relations**

2. Write the **Inspection No.** on your payment

3. If sending via US Mail:

CAL-OSHA Penalties  
PO Box 516547  
Los Angeles, CA 90051-0595

If sending via Overnight Delivery:

US Bank Wholesale Lockbox  
c/o 516547 CAL-OSHA Penalties  
16420 Valley View Ave.  
La Mirada, CA 90638-5821

*Online Payments can also be made by logging on to [http://www.dir.ca.gov/dosh/CalOSHA\\_PaymentOption.html](http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html)*

**-DO NOT** send payments to the California Occupational Safety and Health Appeals Board-