

NOTICE OF ORDER TO COMPLY

To:
Mark McLane, Director
Rutgers University Environmental Health & Safety
Rutgers University
73 Street 1603
Building 4116 Livingston Campus
Piscataway, NJ 08854

Inspection Number: 1475882
UPA Number: 1587685
Inspection Date (s): 05/20/2020-09/24/2020
Issuance Date: 01/22/2021
CSHO: E8170
Reason: Complaint

Inspection Site:
Rutgers University Correctional Health Care
(RUHC)
Northern State Prison
168 Frontage Street
Newark NJ 07114

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

The enclosed Order to Comply describes violations of the Public Employees' Occupational Safety and Health Act. The violations referred to in this Order must be abated by the dates listed unless within 15 working days (excluding weekends and State holidays) from the issuance of this Order to Comply you mail a notice of intent to contest to the Department of Labor and Workforce Development at the address shown above. Please refer to the enclosed Public Employees' Occupational Safety and Health Act which outlines your rights and responsibilities and which should be read in conjunction with this form. The Order will become the Final Order if no notice of intent to contest is filed as provided for in the Act or, if contested, the Order is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Notice and the Order to Comply be posted immediately in a prominent place at or near the location of each 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 Order must remain posted until each violation cited herein has been abated, or for 15 working days (excluding weekends and State 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 Office of Public Employees' Occupational Safety and Health during the 15 working day contest period by contacting the office shown above. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s).

If you are considering a request for an informal conference to discuss any issues related to the Order to Comply, a written letter of intent to contest must be submitted to the Office of Public Employees' Occupational Safety and Health within 15 working days of issuance of the Order. The contest period is not interrupted by a request for an informal conference.

If you decide to request an informal conference, the Office of Public Employees' Occupational Safety and Health will schedule the conference, which will be conducted within 30 days of receipt of the request. Employees and/or employee representatives will be notified of their right to attend the conference. The Office of Public Employees' Occupational Safety and Health will arrange for representatives of the Department of Health to conduct conferences requested from Orders to Comply issued pursuant to a certification from the Commissioner of Health that an employer violation has been determined to exist within the Department of Health jurisdiction under the Act.

Any and all supporting documentation of existing conditions as well as any abatement steps taken thus far must be brought to the conference. If conditions warrant, an informal settlement agreement, which amicably resolves this matter without litigation or contest may be entered into.

Right to Contest - You have the right to contest this Order to Comply. You may contest all citation items or only individual items. You may also contest abatement dates without contesting the underlying violations. **Unless you inform the Office of Public Employees' Occupational Safety and Health in writing that you intend to contest the citation(s) and/or abatement dates within 15 working days of the issuance of this Order to Comply, then this Order to Comply shall become a final order.**

Penalties - The Act provides that if the time for compliance with an order of the Commissioner elapses, and the employer has not made a good faith effort to comply, the Commissioner shall impose a civil administrative penalty of up to \$7,000 per day for each violation of a provision of N.J.S.A. 34:6A-25 et seq., or of a standard or regulation promulgated under that act, or of an order to comply. Any employer who willfully or repeatedly violates the requirements of this section or any standard, rule, order or regulation promulgated under that act shall be assessed a civil administrative penalty of up to \$70,000 for each violation. Penalties imposed under this section may be recovered with costs in a civil action commenced by the Commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) in the Superior Court or a municipal court, either of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the Commissioner shall constitute an additional separate and distinct offense. If this penalty remains unpaid for more than 30 days, this order shall be recorded on the Judgment docket of the Superior Court.

Penalties will be based upon factors such as gravity of the violation, the probability that an injury or illness would result from the hazard, the good faith efforts of the employer to comply, the presence of meaningful safety and health programs and the history of previous violations.

Request to Delay Issuance of Penalty Order to Comply – When an employer submits a request to delay the issuance of an Order to Comply establishing penalties, the employer shall submit such written request 10 calendar days prior to the abatement date(s) established in the original Order to Comply.

Notification of Corrective Action - For **each** violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the New Jersey Department of Health, PEOSH Program. This certification **must** be sent by you prior to the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

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 180 days after the employee first had knowledge that such discrimination occurred, with the Office of Public Employees' Occupational Safety and Health at the address shown above.

Employer Rights and Responsibilities - The enclosed copy of the Public Employees' Occupational Safety and Health Act outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees - The law gives an employee or an employee 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 Office of Public Employees' Occupational Safety and Health at the address shown above and postmarked within 15 working days (excluding weekends and State holidays) of the issuance of this Order to Comply.

Howard Black, Assistant Commissioner
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief
Office of Public Employees Occupational Safety and Health



BY: _____
Thomas Wilson, Assistant Chief
Office of Public Employees Occupational Safety and Health

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health
(OPEOSH)

NOTICE TO EMPLOYEES

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions (Notice) issued on 01/22/2021. The conference will be held at the OPEOSH office located at: 1 John Fitch Way, 3rd Floor, P.O. Box 386, Trenton, NJ 08625 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name:	Rutgers University	Inspection Number:	1475882
Inspection Site:	Rutgers University Correctional Health Care (RUCHC) Northern State Prison 168 Frontage Street Newark NJ 07114	Inspection Date:	05/20/2020-09/24/2020
		Issuance Date:	01/22/2021
		UPA Number:	1587685
		CSHO:	E8170
		Reason:	Complaint

Citation 1 Item 1 Violation: **Serious**

29 CFR 1910.132(d)(2): The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

LOC: Facility Wide

The employer did not provide written Hazard Assessments and PPE requirements for the Rutgers University Correctional HealthCare (RUCHC) employees that clearly identifies that the required workplace hazard assessment has been performed through a written certification and identification of the workplace evaluated. There was no indication of the date of the assessment or the person certifying that the evaluation has been performed through a workplace evaluation/walkthrough.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 29, 2021

Per Diem Penalty per Violation if not Abated:

\$7000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name:	Rutgers University	Inspection Number:	1475882
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Citation 1 Item 2 Violation: **Serious**

29 CFR 1910.134(f)(2): The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.

LOC(s):

- (a) South Woods State Prison (SWSP)
- (b) Central Reception and Assignment Facility (CRAF)
- (c) New Jersey State Prison (NJSP)

The employer did not annually fit test employees that work at facilities with Negative Pressure Isolation Rooms and may be exposed to active pulmonary or laryngeal tuberculosis, and/or other airborne infectious disease such as COVID-19.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 08, 2021

Per Diem Penalty per Violation if not Abated:

\$7000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name:	Rutgers University	Inspection Number:	1475882
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Citation 1 Item 3 Violation: **Serious**

29 CFR 1910.134(m)(2)(i)(C): Recordkeeping. This section requires the employer to establish and retain written information regarding fit testing including the specific make, model, style, and size of respirator tested.

LOC: Facility Wide

The employer did not properly record the make, model, size, and style of the N95 masks on which each employee was fit tested.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 29, 2021

Per Diem Penalty per Violation if not Abated:

\$7000.00

Citation 1 Item 4 a Violation: **Serious**

29 CFR 1910.1030(g)(2)(ii)(B): The employer must ensure that training provided to employees with occupational exposure to bloodborne pathogens is conducted at least annually.

LOC: Facility Wide

All employees with potential occupational exposure did not receive the annual Bloodborne Pathogen (BBP) training. Most nurses assigned to Juvenile Justice sites, and some nurses assigned to Department of Correction sites did not receive the annual BBP training.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 29, 2021

Per Diem Penalty per Violation if not Abated:

\$7000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name:	Rutgers University	Inspection Number:	1475882
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		Reason:	Complaint

Citation 1 Item 4 b Violation: **Serious**

29 CFR 1910.1030(g)(2)(vii)(D): An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

LOC: Facility Wide

An explanation of the employer's Exposure Control Plan and location of the written plan was not included in the Rutgers University Correctional Health Care Nurses annual Bloodborne Pathogen training.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 29, 2021

Per Diem Penalty per Violation if not Abated:

\$0.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

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Citation 2 Item 1 a Violation: **Other-than-Serious**

29 CFR 1904.7(a): Basic requirement. You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

LOC: Facility Wide

The employer provided 300 Logs for the RUCHC Nurses with incorrect classifications. The Employer classified the COVID-19 illness as "All Other Illness", and OSHA guidance stated all COVID illness should be classified as "Respiratory Illness".

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 08, 2021

Per Diem Penalty per Violation if not Abated:

\$1000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

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Citation 2 Item 1 b Violation: **Other-than-Serious**

29 CFR 1904.7(b)(3): When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

LOC: Facility Wide

The employer provided 300 Logs for the RUCHC nurses without indication of the days away from work for the COVID-19 quarantined and positive cases.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

March 08, 2021

Per Diem Penalty per Violation if not Abated:

\$0.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Notice of Unsafe or Unhealthful Working Conditions

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		UPA Number:	1587685
		CSHO:	E8170
		Reason:	Complaint

Signed on 01/22/2021 pursuant to the authority vested by law
in the New Jersey Department of Labor and Workforce Development.

Howard Black, Assistant Commissioner
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief
Office of Public Employees Occupational Safety and Health



BY: _____
Thomas Wilson, Assistant Chief
Office of Public Employees Occupational Safety and Health

DISCRIMINATORY ACTS AGAINST EMPLOYEES ARE UNLAWFUL – N.J.S.A. 34:6A-45 – No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this section. Any employee who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of this section, may within 180 days after the employee first has knowledge such violation did occur, file a complaint with the Commissioner of Labor and Workforce Development alleging that discrimination.

c: Complainant
Howard Black, Assistant Commissioner
Employee Representative(s)
RUCHC CEO
Rutgers University President

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.