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INDIANA DEPT OF LABOR
I.O.S.H.A

SETTLEMENT AGREEMENT

The Commissioner of Labor (hereinafter referred to as "Commissioner") and *Rosegate Village* (hereinafter referred to as "Employer") hereby agree as follows:

A Safety Order and notification of Penalty resulting from IOSHA Inspection No. 318122777 was issued to the Employer on *April 2nd, 2021* and is resolved in the following manner.

Citation 01:

Item 1: *Deleted, Penalty removed, No abatement due*

Item 2: *Deleted, Penalty removed, No abatement due*

The TOTAL AGREED PENALTY is \$0.00

Employer agrees that a request must be made in writing to IOSHA for a Petition for Modification of Abatement prior to the above abatement date if abatement cannot be met by the respective dates and an extension is required. Except for the above specified amendments all other provisions of Safety Order Number 318122777 are retained intact.

Employer agrees that failure to abide by the terms of enhanced abatement as stated herein above will rescind any penalty adjustment provided by the enhanced abatement, and the original penalty amount will be due within 15 business days of the Commissioner's knowledge of said failure.

Employer is required under the authority of §1903.16 to post copies of all amendments or changes to citations resulting from informal conferences. Employer must provide employee representatives with copies of any agreements.

Upon full execution of this Settlement Agreement the Employer will post this Agreement for three (3) working days or until abatement is completed, whichever period is longer. The Safety Order(s) and Notification(s) of Penalty, as amended herein, shall be a final and enforceable Order of the Board of Safety Review.

THE EMPLOYER IS SATISFIED WITH THE AMENDMENTS STATED ABOVE AND ACCORDINGLY WAIVES ITS RIGHT TO FILE A NOTICE OF CONTEST OF THE SAFETY ORDER(S) AND NOTIFICATION(S) OF PENALTY AS AMENDED AND AGREES TO WITHDRAW ANY PREVIOUSLY FILED NOTICES OF CONTEST IN THIS MATTER.

Rosegate Village

By: *Beir Godburne*

Title: *INS & WC Mgr*

Date: *4/20/21*

COMMISSIONER OF LABOR

By: *[Signature]*

Title: *Director of General Industry*

Date: *4-20-21*



INDIANA

DEPARTMENT OF LABOR

ERIC J. HOLCOMB, GOVERNOR
Joe B. Hoage, Commissioner
402 West Washington Street, Room W195
Indianapolis, Indiana 46204-2751
Phone: (317) 232-2655
Fax: (317) 233-3790

April 1, 2021

Bridget Neuson
Rosegate Village
6900 South Gray Road
Indianapolis, IN 46237

Inspection Numbers: 318122777

Dear Bridget Neuson:

An inspection and evaluation of your workplace at Rosegate Village located at 7510 Rosegate Drive, Indianapolis, IN on 5/24/2020 to 3/25/2021 disclosed the following workplace conditions which raise concerns about the potential for employee illness(es) related to exposure to the SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), which is the virus causing coronavirus disease 2019 (COVID-19):

Specifically, employees working in the COVID-19 Unit were required to use N-95 respirators due to the coronavirus disease 2019 (COVID-19) pandemic. I OSHA understands that some employers may face difficulties complying with OSHA standards 29 CFR § 1910.134 due to the ongoing health emergency.

Based on OSHA regulations and the current CDC guidance, which are listed at the end of this letter, it is recommended that you take the following steps to materially reduce your employees' exposure to the hazards and conditions listed above:

Conduct initial and annual fit testing for those employees required to wear tight fitting respiratory protection as part of a comprehensive respiratory protection program. This is a requirement under OSHA's 29 CFR 1910.134-Respiratory Protection standard.

During the inspection, it was determined that a good faith effort was made to fit test employees but due to nationwide shortage of fit testing equipment, this was not achieved by the start of the I OSHA inspection. However, the Compliance Safety and Health Officer conducting the inspection confirmed that the initial fit testing and annual fit testing was completed prior to the completion of the inspection.

For OSHA's latest information and guidance on the COVID-19 outbreak, please refer to OSHA's COVID-19 Safety and Health Topics page, located at www.osha.gov/coronavirus. In addition, specific employer guidance is available (for healthcare workers, airline workers, business travelers, etc.).

1. Preventing Worker Exposure to Coronavirus (COVID-19), OSHA publication 3989), www.osha.gov/Publications/OSHA3989.pdf.
2. Guidance on Preparing for COVID-19. (OSHA publication 3990), www.osha.gov/Publications/OSHA3990.pdf.

The Centers for Disease Control and Prevention (CDC) also maintains a website that provides information for employers concerned with COVID-19 infections in the workplace. The CDC has provided specific guidance for businesses and employers at the following CDC webpage, which is updated regularly: www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html

1. For general information and guidance on the COVID-19 outbreak, please refer to the CDC's main topic webpage at www.cdc.gov/coronavirus/2019-ncov/index.html.
2. Strategies for fit testing during a pandemic and conserving/optimizing the supply of respirators:
 - a. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy> - Just-in-time fit testing refers to the capacity of healthcare facilities to do larger scale evaluation, training, and fit testing of employees when necessary during a pandemic. Facilities may adopt a plan to use the “just-in-time” method for fit testing, which has been incorporated into pandemic plans for many facilities. For large facilities, it may not be feasible to fit test all employees, especially if their job does not typically place them at risk for exposure to airborne infectious diseases such as tuberculosis. If healthcare facilities are expecting to receive COVID-19 patients, they should begin training and start to plan for fit testing now. It is essential to have HCP trained and fit tested prior to receiving patients.
 - b. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/strategies-optimize-ppe-shortages.html>.
 - c. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/release-stockpiled-N95.html>
 - d. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/decontamination-reuse-respirators.html>
3. Hospital Preparedness Assessment Tool, www.cdc.gov/coronavirus/2019-ncov/downloads/hospital-preparedness-checklist.pdf. Also, for Infection Control Guidance, www.cdc.gov/oralhealth/infectioncontrol/statement-COVID.html.

It is important to know that IOSHA may return to your worksite to reexamine the conditions noted above.

You may request a free consultation, including on-site visits, from INSAFE which operates independently from the Indiana Occupational Safety and Health Administration (IOSHA) regarding workplace safety and health issues at (317) 232-2688 or <https://secure.in.gov/dol/2386.htm>. In addition, general resources for compliance assistance are available at www.osha.gov/employers/.

Please feel free to contact the undersigned if you have any questions on our procedures.

Sincerely,

A handwritten signature in black ink, appearing to read "Jameson Berry". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jameson Berry
Director of General Industry
Indiana OSHA

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



Safety Order and Notification of Penalty

To:
Rosegate Village
and its successors
6900 South Gray Road
Indianapolis, IN 46237

Inspection Number: 318122777
CSHO ID: C2116
Optional Report No.: 2334-20
Inspection Date(s): 5/27/2020 - 3/25/2021
Issuance Date: 4/1/2021

Inspection Site:
7510 Rosegate Drive
Indianapolis, IN 46237

The violation(s) described in this Safety Order 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.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has

occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent board appointed by the governor with authority to conduct legal proceedings leading up to and including administrative hearings, or assign an Administrative Law Judge (ALJ) to conduct the same, and to issue decisions concerning disputed safety orders and notifications of penalties. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty and proof of abatement must be sent to the email address: AbatementGI@dol.in.gov unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall be sent to the email address: AbatementGI@dol.in.gov shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required sending the Petition to AbatementGI@dol.in.gov. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction and sent to the email address AbatementGI@dol.in.gov. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted via email at AbatementGI@dol.in.gov, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty..

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

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 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

Notice to Employees - The law gives an employee or his/her 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 Indiana Department of Labor/IOSHA at the address shown above within fifteen (15)

working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.

Indiana Department of Labor

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 4/1/2021. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318122777
Inspection Date(s): 5/27/2020 - 3/25/2021
Issuance Date: 4/1/2021
CSHO ID: C2116
Optional Report No.: 2334-20

Safety Order and Notification of Penalty

Company Name: Rosegate Village
Inspection Site: 7510 Rosegate Drive, Indianapolis, IN 46237

Safety Order 01 Item 001 Type of Violation: **Serious**

29 CFR 1910.134(c)(1): A written respiratory protection program that included the provisions in 29 CFR 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use:

Facility – An effective respiratory protection program was not written, developed and implemented in a workplace where N95 respirators were required to be worn by employees such as, but not limited to, nurses, certified nursing assistants, and therapy staff.

Date By Which Violation Must Be Abated: **5/5/2021**
Proposed Penalty: **\$4,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 318122777
Inspection Date(s): 5/27/2020 - 3/25/2021
Issuance Date: 4/1/2021
CSHO ID: C2116
Optional Report No.: 2334-20

Safety Order and Notification of Penalty

Company Name: Rosegate Village
Inspection Site: 7510 Rosegate Drive, Indianapolis, IN 46237

Safety Order 01 Item 002 Type of Violation: **Serious**

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee-s ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

Facility – A medical evaluation to determine an employee’s ability to wear a respirator was not conducted with employees such as, but not limited to, nurses, certified nursing assistants, and therapy staff who were required to wear N95 respirators.

Date By Which Violation Must Be Abated:
Proposed Penalty:

5/5/2021
\$4,500.00



Jameson Berry
Director of General Industry

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington Street, Room W195
Indianapolis, Indiana 46204
Phone: (317) 232-2691 FAX: (317) 233-3790



INVOICE/DEBT COLLECTION NOTICE

Company Name: Rosegate Village
and its successors
Inspection Site: 7510 Rosegate Drive, Indianapolis, IN 46237
Issuance Date: 4/1/2021

Summary of Penalties for Inspection Number: 318122777

Safety Order 1, Serious = \$9,000.00
TOTAL PENALTIES = \$9,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA." Please indicate IOSHA's Inspection Number (indicated above) on the remittance. You may also make a payment online at <https://payingov.com/dol/>. Your account number is your inspection number.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A worksheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

Jameson Berry
Director of General Industry

4/1/2021
Date