

U.S. Department of Labor Announces OSHA Interim Enforcement Response Plan to Protect Workers during the Coronavirus Pandemic

On April 14, OSHA released an [interim guidance](#) covering all investigations and inspections specifically related to the workplace hazard of COVID-19 and to ensure that employers take prompt actions to mitigate hazards and protect employees. Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees.

OSHA reports that the complaints it has received during the initial months of the outbreak describe concerns related to lack of personal protective equipment (PPE), such as respirators, gloves, and gowns. OSHA has also received complaints expressing concern about a lack of training on appropriate standards and about possible COVID-19 illnesses in the workplace.

Formal complaints alleging COVID-19 exposure, where employees are engaged in medium or lower exposure risk tasks will not normally result in an on-site inspection (Lower exposure risk jobs are those that do not require contact with people known to be, or suspected of being, infected with COVID-19, nor frequent close contact with, i.e., within 6 feet of, the general public). In such cases, Area Offices will use the non-formal procedures for investigating alleged hazards. Inadequate responses to a phone/fax investigation should be considered for an on-site inspection. Non-formal complaints and referrals related to COVID-19 exposures will be investigated using non-formal processing to expedite employers' attention to alleged hazards.

Program and Document Review. Inspectors should take the following steps electronically or remotely (e.g., via phone or online) before attempting a walkaround inspection, as appropriate to the type of facility:

- Determine whether the employer has a written pandemic plan as recommended by the CDC.[1] If this plan is a part of another emergency preparedness plan, the review does not need to be expanded to the entire emergency preparedness plan (i.e., a limited review addressing issues related to exposure to pandemics would be adequate). The evaluation of an employer's pandemic plan may be based upon other written programs and, in a hospital, a review of the infection control plan.
- Review the facility's procedures for hazard assessment and protocols for PPE use with suspected or confirmed COVID-19 patients.
- Determine whether the workplace has handled specimens or evaluated, cared for, or treated suspected or confirmed COVID-19 patients. This should include a review of laboratory procedures for handling specimens and procedures for decontamination of surfaces.
- Review other relevant information, such as medical records related to worker exposure incident(s), OSHA-required recordkeeping and any other pertinent information or documentation deemed appropriate by the CSHO. This includes determining whether any employees have contracted COVID-19, have been hospitalized as a result of COVID-19, or have been placed on precautionary removal/isolation.
- Review the respiratory protection program and any modified respirator policies related to COVID-19, and assess compliance with 29 CFR § 1910.134.
- Review employee training records, including any records of training related to COVID-19 exposure prevention or in preparation for a pandemic, if available.
- Review documentation of provisions made by the employer to obtain and provide appropriate and adequate supplies of PPE.
- Determine if the facility has airborne infection isolation rooms/areas, and gather information about the employer's use of air pressure monitoring systems and any periodic testing procedures.
- Review any procedures for assigning patients to those rooms/areas and procedures to limit access to those rooms/areas only by employees who are trained and adequately outfitted with PPE.

Observation of hazards. Where no violations of OSHA standards, regulations, or the general duty clause are observed or documented, inspectors shall terminate the inspection and leave the facility.

Citation Guidance. The above standards and requirements should be evaluated for high to very high occupational exposure risk as defined in this memorandum. The list is not exhaustive. Violations of OSHA standards cited under the inspection guidance in this memorandum will normally be classified as serious.

Injury/Illness Records. Inspectors should review the employer's injury and illness records to identify any workers with recorded illnesses or symptoms associated with exposure(s) to patients with suspected or confirmed COVID-19 or other sources of COVID-19. Employers are responsible for recording cases of COVID-19 if all of the following requirements are met:

- The case is a confirmed case of COVID-19, as defined by the CDC;
- The case is work-related, as defined by 29 CFR § 1904.5; and
- The case involves one or more of the recording criteria set forth in 29 CFR § 1904.7 (e.g., medical treatment, days away from work).

Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19)

This memorandum provides [interim guidance](#) to Compliance Safety and Health Officers (CSHOs) for enforcing the requirements of 29 CFR Part 1904 with respect to the recording of occupational illnesses, specifically cases of Coronavirus Disease 2019 (COVID-19). This memorandum will take effect immediately and remain in effect until further notice. This guidance is intended to be time-limited to the current public health crisis. Please frequently check OSHA's webpage at www.osha.gov/coronavirus for updates.

Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness, and employers are responsible for recording cases of COVID-19, if: (1) the case is a confirmed case of COVID-19, as defined by Centers for Disease Control and Prevention (CDC); (2) the case is work-related as defined by 29 CFR § 1904.5; and (3) the case involves one or more of the general recording criteria set forth in 29 CFR § 1904.7. On March 11, the World Health Organization (WHO) declared COVID-19 a global pandemic, and the extent of transmission is a rapidly evolving issue.

In areas where there is ongoing community transmission, employers other than those in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions may have difficulty making determinations about whether workers who contracted COVID-19 did so due to exposures at work. In light of those difficulties, OSHA is exercising its enforcement discretion in order to provide certainty to the regulated community.

Employers of workers in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions must continue to make work-relatedness determinations pursuant to 29 CFR § 1904. Until further notice, however, OSHA will not enforce 29 CFR § 1904 to require other employers to make the same work-relatedness determinations, except where:

1. There is objective evidence that a COVID-19 case may be work-related. This could include, for example, a number of cases developing among workers who work closely together without an alternative explanation; and
2. The evidence was reasonably available to the employer. For purposes of this memorandum, examples of reasonably available evidence include information given to the employer by employees, as well as information that an employer learns regarding its employees' health and safety in the ordinary course of managing its business and employees.

This enforcement policy will help employers focus their response efforts on implementing [good hygiene practices](#) in their workplaces, and otherwise mitigating COVID-19's effects, rather than on making difficult work-relatedness decisions in circumstances where there is community transmission.

CSHOs will generally refer to CPL 02-00-135, *Recordkeeping Policies and Procedures Manual* (Dec. 30, 2004) and CPL 02-00-163, *Field Operations Manual (FOM)* (Sept. 13, 2019), Chapters 3 and 6, as applicable. The following additional specific enforcement guidance is provided for CSHOs:

COVID-19 is a respiratory illness and should be coded as such on the OSHA Form 300. Because this is an illness, if an employee voluntarily requests that his or her name not be entered on the log, the employer must comply as specified under 29 CFR § 1904.29(b)(7)(vi).

If you have any questions regarding this policy, please contact Elizabeth Grossman, Director of the Office of Statistical Analysis, at (202) 693-2225.