

COVID-19 Training

OSHA continues to update their guidance regarding the COVID-19 crisis. Employers should reevaluate their current safety programs and ensure they understand how this updated guidance affects their operations. In a memorandum released May 19th and effective May 26th, OSHA indicated, “in geographic areas where community spread of COVID-19 has significantly decreased, OSHA will return to the inspection planning policy that OSHA relied on prior to the start of the COVID-19 health crises.” OSHA also stated that COVID inspections would be prioritized.

In March of 2020, OSHA released a document titled, “Guidance on Preparing Workplaces for COVID-19”. This publication has proven to be a roadmap of expectations that OSHA may utilize during a non-formal phone/fax investigation or onsite investigation. Employers should reference this guidance and consider reevaluating the following regulations and how they apply in relation to COVID-19:

- 29 CFR § 1904, Recording and Reporting Occupational Injuries and Illnesses.
- 29 CFR § 1910.132, General Requirements - Personal Protective Equipment.
- 29 CFR § 1910.133, Eye and Face protection.
- 29 CFR § 1910.134, Respiratory Protection.
- 29 CFR § 1910.1200, Hazard Communication.
- 29 CFR § 1910.141, Sanitation.
- 29 CFR § 1910.1030, Bloodborne Pathogens.
- 29 CFR § 1910.145, Specification for Accident Prevention Signs and Tags.
- 29 CFR § 1910.1020, Access to Employee Exposure and Medical Records.
- Section 5(a)(1), General Duty Clause of the OSH Act.

The above-mentioned memorandum provided updated information from the original April 10, memorandum indicating that OSHA had changed their stance on recording and reporting of COVID-19 cases. Initial guidance indicated that as long as employers were cognizant of the hazard of COVID-19 transmission and were making efforts to protect their workers, OSHA recordability would most likely not apply. Original guidance focused on healthcare workers, law enforcement and correctional facilities. Updated guidance states that ALL employers should evaluate any case of COVID-19 occurring in an employee for possible work-relatedness and possible recordability.

Under the General Duty Clause of the OSH Act, employers are required to provide employment that is free from “recognized hazards”. It is safe to say that the risk of transmission of COVID-19 is considered a hazard in almost all workforces, some whom are at higher risk than others. In order for OSHA to successfully cite a General Duty Clause violation, OSHA has a burden to prove:

1. Condition or activity in the workplace presented a hazard
2. Employer or its industry recognized the hazard
3. Hazard was likely to cause death or serious physical harm a feasible means

existed to eliminate or materially reduce the hazard

OSHA guidance document references, “During a COVID-19 outbreak, when it may not be possible to eliminate the hazard, the most effective protection measures are (listed from most effective to least effective): engineering controls, administrative controls, safe work practices (a type of administrative control), and PPE.” Employers should consider reviewing current workplace practices and implement engineering controls, administrative controls and lastly, personal protective equipment if necessary, to protect their employees.

Engineering controls may include:

- Installing high-efficiency air filters.
- Increasing ventilation rates in the work environment.
- Installing physical barriers, such as clear plastic sneeze guards.

Administrative controls may include:

- Encouraging sick workers to stay at home.
- Minimizing contact among workers, clients, and customers by replacing face-to-face meetings with virtual communications and implementing telework if feasible.
- Establishing alternating days or extra shifts that reduce the total number of employees in a facility at a given time, allowing them to maintain distance from one another while maintaining a full onsite work week.
- Discontinuing nonessential travel to locations with ongoing COVID-19 outbreaks. Regularly check CDC travel warning levels at: www.cdc.gov/coronavirus/2019-ncov/travelers.
- Developing emergency communications plans, including a forum for answering workers’ concerns and internet-based communications, if feasible.
- Providing workers with up-to-date education and training on COVID-19 risk factors and protective behaviors (e.g., cough etiquette and care of PPE).
- Training workers who need to use protecting clothing and equipment how to put it on, use/wear it, and take it off correctly, including in the context of their current and potential duties. Training material should be easy to understand and available in the appropriate language and literacy level for all workers.
- Updated PPE Hazard Assessment if applicable

All types of PPE must be:

- Selected based upon the hazard to the worker.
- Properly fitted and periodically refitted, as applicable (e.g., respirators)



The CDC and OSHA both agree that cloth and paper masks are not considered Respiratory Protection and therefore do not require a Respiratory Program or medical monitoring under the standard. However, “Workers, including those who work within 6 feet of patients known to be, or suspected of being, infected with SARS-CoV-2 and those performing aerosol-generating procedures, need to use respirators.” Workers should continue to utilize standard PPE evaluated as appropriate for their job, including respirators. If workers have not required N95 masks previously, it is universally agreed that these should be left for first responders. As always, N95 filtering facepiece respirators or better must be used in the context of a comprehensive, written respiratory protection program that includes, fit-testing, training and medical evaluations.

Hazard Communication should be reevaluated with specific consideration to “chemicals in the workplace”, that are normally considered consumer products under 1910.1200(b)(6)(vii). Employers are recommended to consider the frequency and duration of use of sanitation products such as disinfecting wipes, bleach and disinfecting sprays. If applicable, SDS’s should be obtained and employees should be educated on use of these additional “chemicals in the workplace” and that training/education should be documented.

The sanitation standard, 29 CFR 1910.141, along with the specification for accident sign and prevention standard, 29 CFR 1910.145 should be reviewed for their applicability also. Additional handwashing facilities, soap, alcohol-based hand sanitizers and other methods to protect employees should be provided. Supplementary signage referring proper handwashing techniques, social distancing and mask requirements may be required. Refer to your local public health orders for additional information.

“OSHA’s Bloodborne Pathogens standard (29 CFR 1910.1030) applies to occupational exposure to human blood and other potentially infectious materials that typically do not include respiratory secretions that may transmit SARS-CoV-2. However, the provisions of the standard offer a framework that may help control some sources of the virus, including exposures to body fluids (e.g., respiratory secretions) not covered by the standard.” Information and training may include additional information on decontamination for purposes of removing, inactivating or destroying bloodborne pathogens in the workplace. Any changes that may affect the employer’s exposure control plan should be reflected in an annual review of the plan as required under 29 CFR 1910.1030 (c)(1)(4).

Employers should also review their current Access to Employee Exposure and Medical Records policy’s and employee consent forms. 29 CFR § 1910.1020 requires employers to keep medical records (e.g., medical histories and physician's written opinions) and exposure records (e.g., environmental and biological monitoring) relating to occupational illnesses and injuries for the employee's length of employment, plus thirty years. This standard provides employees and their designated representatives a right of access to relevant exposure and medical records. Access to this information is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. It is difficult to understand how this standard may apply to COVID-19 and potential workplace exposure but employers should be aware of the regulation and its requirements.



Potential Whistleblower concerns should be considered as well. OSHA's Whistleblower Protection Program enforces the whistleblower provisions of 22 federal statutes protecting employees who raise or report concerns about hazards or violations of various workplace safety and health, airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportations agency, railroad, maritime and securities laws.

An employer must not retaliate against an employee for engaging in activities that are protected under these laws. Protected activities may include; filing a report about a possible violation of the law with OSHA or other government agencies, reporting concern about a possible violation of the law to the employer, reporting a workplace injury, illness, or hazard, cooperating with law enforcement, refusing to conduct tasks that would violate the law, or engaging in any other type of statutorily protected activity.

For more information contact your AP Loss Prevention Department or visit OSHA's website at www.osha.gov.