

NAVIGATING OSHA EXPECTATIONS

HOW TO BE PREPARED TO MAINTAIN COMPLIANCE

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Who is OSHA?

- OSHA is a division of the US Department of Labor
- Formed April 28, 1971 after the OSH Act was signed into law on December 29, 1970.
- Prior to the OSH Act, there were no national laws for occupational safety and health hazards.
- OSHA is tasked with enforcing standards (laws) that focus on worker safety and health protection.
- Their mission is to save lives, prevent injuries, and protect the health of America's workers.
- Section 5(a)(1): *Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.*



OSHA'S Existing Protocols

A compliance officer must have a reason to be at the site. OSHA's inspection priority is as follows.

1. Imminent Danger- Reasonable certainty an immediate danger exists (e.g. workers in an unprotected trench)
2. Fatality/Catastrophe/Amputation, Loss of an Eye, or In-Patient Hospitalization- Reported to OSHA and inspected ASAP
3. Complaint/Referrals- A worker or worker representative files a complaint about a safety or health hazard
4. Programmed Inspections-Cover industries with high injury and illness rates, specific hazards, or other exposures



What About a COVID-19 Standard?

- Some organizations, including the AFL-CIO, have requested that OSHA issue a temporary standard for COVID-19 in an effort to enhance worker protection.
- As standards take time to implement, OSHA has established 8 existing standards they may use for violations related to COVID-19. (More on this later)
- There have been no changes to the requirement that the employer provide a safe and healthy workplace for employees.
- OSHA has an existing resource page, updated regularly, that reflects the most recent information and guidance.
- OSHA is also tracking enforcement and whistleblower data.

See www.osha.gov for more information



Determining Employee Exposure Risk

In response to the pandemic, OSHA developed a tool for employers to use to determine if their employees fall into one of four risk categories.

- Lower Risk
- Medium Risk
- High Risk
- Very High Risk

Occupational Risk Pyramid
for COVID-19



Image courtesy of www.osha.gov

In some situations, the risk fluctuates as an employee's job duties or tasks change. Consider everything an employee does when evaluating risk. Remember, OSHA already requires the employer to perform a workplace hazard assessment.



Determining Employee Exposure Risk

Lower Exposure Risk (Caution)

Involves jobs that do not require contact with people known to be, or suspected of being infected with COVID-19. These employees have minimal occupational contact with the public and other coworkers.

Examples

- Remote workers (capable of working from home)
- Office workers who do not have frequent close contact with coworkers, customers, or the public
- Manufacturing and industrial facility workers who do not have frequent close contact with coworkers, customers, or the public
- Healthcare workers providing only telemedicine services
- Long-distance truck drivers



Determining Employee Exposure Risk

Medium Exposure Risk

Jobs that require frequent/close contact with people who may be infected, but who are not known to have or suspected of having COVID-19.

Examples

- Those who may have frequent contact with travelers who return from international locations with widespread COVID-19 transmission.
- Those who may have contact with the general public (e.g. in schools, high population density work environments, and some high-volume retail settings)



Determining Employee Exposure Risk

High Exposure Risk

Jobs with a high potential for exposure to known or suspected sources of COVID-19.

Examples

- Healthcare delivery and support staff (hospital staff who must enter patient's rooms) exposed to known or suspected COVID-19 patients.
- Medical transport workers (ambulance vehicle operators) moving known or suspected COVID-19 patients in enclosed vehicles.
- Mortuary workers involved in preparing bodies for burial or cremation of people known to have, or suspected of having COVID-19 at the time of death.



Determining Employee Exposure Risk

Very High Exposure Risk

Jobs with a high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures.

Examples

- Healthcare workers (doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g. intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
- Healthcare or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g. manipulating cultures from known or suspected COVID-19 patients)
- Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have, or are suspected of having COVID-19 at the time of death.



Determining Employee Exposure Risk

Job duties or tasks that may cause an employee to move from one exposure risk level to another.

- Other types of healthcare positions (pre-hospital and medical transport workers, allied medical care professionals, and support staff)
- Emergency Response (emergency medical services workers, firefighters, and law enforcement officers)
- Other postmortem care positions (funeral directors)
- Research or production laboratory workers
- Airline operations
- Retail operations, particularly those in critical and/or high-customer volume environments.
- Border protection and transportation security



Determining Employee Exposure Risk

Job duties or tasks that may cause an employee to move from one exposure risk level to another.

- Correctional facility operations
- Solid waste and wastewater management
- Environmental (i.e. janitorial) services
- In-home repair services
- Travel to areas where the virus is spreading
- Pastoral, social, or public health workers in jobs requiring contact with community members who may spread the virus
- Transit and delivery drivers, depending on their degree of close contact with the public



Reducing Employee Risk

- After the hazard assessment is complete for the facility or job site, the employer must determine the appropriate means to reduce the risk.
- OSHA requires that employers use the Hierarchy of Controls in order to reduce/eliminate workplace hazards.

The Hierarchy of Controls consists of the following:

- Engineering Controls
- Administrative Work Practices
- Personal Protective Equipment



Reducing Employee Risk

Engineering Controls

A physical change to the work environment to prevent employee exposure to a potential hazard.

With Regard to COVID-19, Includes:

- Installing barriers where feasible (as seen at the grocery store)
- Modifying work-station locations for effective social distancing
- Isolating processes
- Ventilation



Reducing Employee Risk

Administrative Work Practices

Removes employees from exposure by changing the way they do their jobs.

With Regard to COVID-19, Includes:

- Staggered shift and break starts
- Signs and placards that identify 6 feet of distance and direct traffic flow
- Specified sanitation schedules (as frequently as every 30 minutes or more for high touch surfaces)
- Temperature and pulse/oxygen screening at regular intervals (i.e. 1 to 3 times/shift)
- Use of wellness questionnaires



Reducing Employee Risk

Personal Protective Equipment (PPE)

PPE is the last line of defense, used only after engineering and work practices have been exhausted and exposures still remain or, in the case of COVID-19, is mandated by the State. PPE may also be used as an interim protective measure while engineering controls are being installed.

With Regard to COVID-19, Includes:

- Face masks (cloth) **Note:** N95 dust masks are best reserved for healthcare personnel who are interacting with known or suspected COVID-19 cases, or for people who are caring for a family member who is known or suspected to have COVID-19.
- Face shields- supplementary to face masks when working in close proximity with other employees and a physical barrier is not feasible.
- Nitrile or vinyl gloves- for personnel tasked with temperature or pulse/oxygen screenings, or sanitation. **Note:** Appropriate training is necessary for personnel who use gloves to reduce the potential for self-contamination resulting from improper glove use.



OSHA'S Evolving Stance

- As the pandemic began to unfold in Ohio (prior to the stay at home order), OSHA started receiving complaints from workers or their representatives alleging potential exposures, lack of PPE, or training.
- In the early days of the pandemic, OSHA issued letters to employers when complaints were received that outlined the CDC guidelines to use. (Remember the risk assessment)
- On April 10, 2020, OSHA issued a memorandum that outlined its position on recording COVID-19 cases on the 300 logs, specific to this current public health crisis.
- OSHA gives the following guidance for recording COVID-19 cases.



OSHA'S Evolving Stance

OSHA recognized that in areas of ongoing community transmission, employers outside the healthcare and emergency response organizations may have difficulty determining if the employee contracted COVID-19 from a work-related exposure.

OSHA offered the following guidance for these employers outside of the named industries. OSHA will not enforce 29 CFR § 1904 to require these employer to make the work-relatedness determination, except where:

- 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; (e.g. Smithfield Pork Processing Plant, Sioux Falls, SD) and
- 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 the employer learns regarding its employees' health and safety in the ordinary course of managing its business and employees.



OSHA'S Evolving Stance

- May 19, 2020 OSHA issued a memorandum for Regional Administrators and State Plan Designers, outlining how OSHA will respond to workplace complaints of COVID-19 exposure.
- Effective May 26, 2020 the prior memorandum issued April 10th will be rescinded and an updated enforcement response plan will go into effect and remain in effect until further notice.
- In geographic areas where community spread of COVID-19 has significantly decreased, OSHA will utilize phone/fax investigations or Rapid Response Investigations where appropriate.
- Rapid Response Investigations (RRI) consist of a letter sent to the employer that requires proof of abatement, within a specified time frame (5 days), of the hazard that caused the injury. OSHA has specified that the RRI is to be used in most cases.



OSHA'S Evolving Stance

- If an on-site inspection is warranted, the Area Director will ensure that Compliance Officers utilize appropriate precautions and PPE for the inspection.
- The CSHO will determine if the employer has a written pandemic plan as recommended by the CDC, and if the appropriate hazard assessments have been completed.
- Medical and training records may also be reviewed depending upon the nature of the complaint or referral.



OSHA'S Evolving Stance

- In geographic areas experiencing sustained elevated community transmission or a resurgence in community transition, Area Directors will exercise their discretion with regard to on-site inspections.
- Remote inspections will be used where appropriate or where resources are insufficient for on-site inspections, with an expectation that the on-site component will be performed if/when resources become available to do so.
- Where limitations are such that neither on-site nor remote inspection is feasible, OSHA will rely on using the RRI.
- OSHA will develop a program to conduct monitoring inspections from a randomized sampling of fatality or imminent danger cases where inspections were not conducted due to resource limitations.

OSHA's Evolving Stance

- OSHA, like the rest of us, will continue to rely on the latest information available from the CDC.
- They will tailor their response to the latest guidelines.
- As this is expected to be “Round One” with COVID-19, all employers should develop and document a plan to reduce potential exposures at their workplaces. It is expected this will be a requirement going forward.
- It is currently unclear where COVID-19 falls on the immunity spectrum (e.g. once you have had chicken pox, you attain universal long-lasting resistance to the virus that causes it).
- Researchers are searching for both treatment and preventive measures, which take time.



Pandemic Preparedness

- A written Pandemic Response plan is recommended that provides the actions to take from when the pandemic is first starting up to a return to quasi-normal conditions.
- Such a plan should address work of essential and non-essential personnel, plans for traveling employees, contractors/visitors, social distancing, increased sanitation, etc.
- Plans should also include protocols if an employee tests positive.
- SCT can help customize a plan for each industry to provide direction.



Building A Plan

Once you have performed your risk assessments, develop a plan for each classification of employees you have, as well as visitors or contractors. The goal is to reduce/eliminate risk as much as possible.

- Traveling Employees: Implementation of restrictions/requirements
- Visitors/Contractors: Eliminated entirely, or severely restricted based on need. What protocols will they follow? Will they be screened the way employees are?
- Which employees can work from home?

Determine how you will implement your response, particularly if you will make changes to your workplace when pandemic activity is reported anywhere in the world vs. in Ohio specifically.



Building A Plan

Worst case scenario, someone at the facility tests positive. A specific response plan should be in place.

- Notify immediate co-workers of the positive employee's test so that they can begin self-quarantine for 14 days.
- If self-quarantine will not be mandated, the exposed employees will be required to wear a mask at all times for a time period of 14 days from the last known exposure.
- Determine if a temporary closure is necessary for facility decontamination. (This can be of the entire facility, the department, or workstation of the affected employee.)
- Contract with a company to perform the decontamination of the site.

Determine at which point employees who have been ill, and have recovered, can be permitted to return to work. A best-practice recommendation is after they have been symptom and fever-free for at least 72 hours, and at least 7 days have elapsed from the onset of illness.



Summary

- Perform the hazard assessment to determine how your employees are classified
- Develop engineering and work practice controls to reduce potential exposures
- Supplement with PPE, and adhere to State requirements
- Develop and implement a plan to respond to all phases of the pandemic
- Train all staff in the plan and what to expect
- Continue to communicate your facility's status to employees as the pandemic progresses
- Communication is critical, as employees will be eager for information during a high stress/high anxiety time.
- Be prepared to provide documentation to OSHA in the event of an employee complaint.
- Remember, we will get through this.



