

COMPLIANCE BULLETIN



OSHA Has Launched a COVID-19 National Emphasis Plan

On March 12, 2021, the Occupational Safety and Health Administration (OSHA) launched a [national emphasis program](#) (NEP) for COVID-19. OSHA establishes NEPs when it identifies a need to focus its resources to address particular hazards and high-hazard industries.

This NEP will remain in effect for one year or until OSHA amends or cancels the program.

COVID-19 NEP

Prior OSHA guidance primarily addressed mitigating and limiting the spread of COVID-19. This NEP prioritizes the use of OSHA resources to eliminate and control workplace exposure to COVID-19.

OSHA's interim enforcement response provides supplemental information to the NEP, including:

- Implementing the U.S. Department of Labor's (DOL) COVID-19 Workplace Safety Plan;
- Prioritizing COVID-19-related inspections involving death or multiple hospitalizations; and
- Performing on-site (rather than remote) inspections when practical and safe for OSHA compliance officers.

This Compliance Bulletin presents an overview of OSHA's updated strategy.

Action Steps

Employers should familiarize themselves with OSHA's COVID-19 NEP, implementing all policies, measures and procedures necessary for compliance with OSHA regulations. Employers are encouraged to visit [OSHA's COVID-19 website](#) for guidance on how to comply with workplace safety requirements.

Helpful Resources

- Updated Interim [Enforcement](#) Response Plan for COVID-19
- National Emphasis Program [Direction](#)
- Primary Target [Industries](#) for COVID-19 NEP
- Secondary Target [Industries](#) for COVID-19 NEP
- CSHO Pre-inspection [Checklist](#)
- Sample Employer [Letter](#) to Corporate Offices for COVID-19 Activities
- Additional [References](#)
- OSHA's COVID-19 [FAQs](#)

Important Dates

March 12, 2021

OSHA releases COVID-19 program for protection of high-risk workers.

March 18, 2021

OSHA is expected to rescind the 2020 memorandum on this topic and adopt the interim enforcement response plan until further notice.

March 12, 2022

The NEP will end unless OSHA amends or cancels it sooner.

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National Emphasis Program Summary

OSHA will use a three-pronged approach to reduce worker exposure to COVID-19. The main elements of this strategy are:

1. Targeted on-site inspections;
2. Employer outreach; and
3. Compliance assistance.

On-site Inspections

On-site inspections will play a pivotal role in this NEP. In fact, OSHA expects to complete approximately 1,600 inspections OSHA-wide until further notice. Most of these inspections are expected to be conducted in the general industry sector, and OSHA will dedicate specific resources to the health care sector because of the higher number of complaints about, referrals for and severe incident reports regarding health care worksites. Establishments with fewer than 10 workers must also be included in this NEP.

Establishment Targeting Criteria

OSHA will prioritize on-site inspections after considering establishment fatalities as well as risk and illness rates. As usual, OSHA will rely on establishment NAICS codes to identify the industries that present the highest risk of exposure to COVID-19. These types of establishments are listed in Master List 1, as detailed by [Appendix A \(Targeted Industries in Healthcare and Non-healthcare\)](#) and [Appendix B \(Non-healthcare Essential Workers\)](#).

OSHA will also maintain a Master List 2 that's comprised of the establishments listed in appendices A and B that have an elevated illness rate as indicated by OSHA Form 300A data. This data will be pulled from the 2020 OSHA Form 300A. However, the NEP allows OSHA area offices to add establishments to the generated master lists regardless of whether the NAICS code of that establishment is listed in the appendices. Area offices will add establishments to the master list after considering information procured from appropriate sources, including:

- Local knowledge of establishments;
- Commercial directories;
- Referrals from the local health department;
- Federal agencies like Medicare & Medicaid Services; and
- The U.S. Department of Agriculture.

Similarly, OSHA area offices can delete any establishment from their target list if the establishment:

1. Has had a comprehensive or partial health inspection that addressed COVID-19 hazards; and
2. The inspection had an opening conference date that occurred within the last 12 months.

In addition, the inspection must have resulted in one of the following:

- Serious citations related to COVID-19 hazards that are under contest or for which the abatement period has not yet expired;
- Other-than-serious citations for hazards related to exposure to COVID-19; or



- Serious citations for hazards related to exposure to COVID-19 with a follow-up inspection that documented appropriate and effective employer efforts to abate the serious hazards cited.

Inspection Priorities

OSHA will continue to follow its [system of inspection priorities](#) when allocating inspection resources. OSHA's inspection priorities follow this hierarchy:

1. Imminent danger situations
2. Fatality/catastrophe—Particular attention for on-site inspections will be given to workplaces with a higher potential for COVID-19 exposures, high numbers of COVID-19-related complaints or known COVID-19 cases. Examples include hospitals, assisted living facilities, nursing homes, other health care and emergency response providers with COVID-19 patients, correctional facilities and workplaces where workers are fewer than 6 feet from the public or co-workers (e.g., meatpacking plants, poultry processing facilities and grocery stores).
3. Complaints/referrals—Includes any establishment where worker exposure to COVID-19 is confirmed or suspected (regardless of whether symptoms are present)
4. Programmed inspections

Follow-up Inspections

OSHA will primarily conduct follow-up inspections to confirm that previously identified COVID-19 hazards have been corrected. As a result, the target group for follow-up inspections consists of establishments that were previously inspected and received a citation due to a COVID-19-related fatality. Additional follow-up inspections will be conducted for any establishments receiving deferred violations first, followed by establishments receiving serious (or other-than-serious) citations related to COVID-19 hazards.

However, at their discretion, area directors can conduct follow-up inspections when:

- An establishment has previously received an other-than-serious recordkeeping and reporting violation;
- A previously inspected employer allegedly continues to expose employees to COVID-19, or has not fully and properly implemented required engineering controls, work practices and respiratory protection noted in the abatement certification within the specific time period; or
- Employers fail to abate any violations brought to their attention from previous inspections.

If a follow-up inspection cannot be performed, OSHA may require the establishments to provide the agency with written statements and documentation of hazard abatement efforts.

Document Review

Prior to a walkaround inspection at any particular establishment, OSHA compliance safety and health officers (CSHOs) will, if appropriate to the facility:

- Determine whether the establishment has a written safety and health plan that includes contingency planning for emergencies and natural disasters (e.g., the current pandemic). 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. The evaluation of an employer's pandemic plan may be based upon other written programs and, in hospitals, a review of the infection control plan;

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- ☑ Review the facility's procedures for hazard assessment and protocols for personal protective equipment (PPE) use;
- ☑ Determine whether the establishment has implemented measures to facilitate physical distancing (e.g., signage and barriers) and enforced the use of face coverings by employees, customers and the public;
- ☑ Review information related to worker exposure incidents, such as medical records, OSHA-required records and any other pertinent documentation the CSHO requires to determine 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 and assess compliance with the establishment's respiratory protection program and any modified respirator policies related to COVID-19 (including whether the [PPE for respiratory protection standard](#) applies);
- ☑ Review employee training records, including any records of training related to COVID-19 exposure prevention or in preparation for a pandemic, if available; and
- ☑ Review documentation establishment efforts to obtain and provide appropriate and adequate sanitation supplies and employee PPE.

CSHOs will review and consider additional records, policies and procedures for health care facilities.

Walkarounds

CSHOs and establishment supervisors will work together to determine which areas of the establishment allow for a safe on-site inspection. CSHOs will inspect facilities in a manner that minimizes or prevents the risk of exposure. CSHOs will also avoid potential exposure to suspected or confirmed COVID-19-positive persons (e.g., quarantined workers, patients and residents).

As appropriate, CSHOs may conduct private interviews with affected employees in uncontaminated areas or remotely. CSHOs will practice physical distancing and wear face coverings while conducting in-person interviews with employees, but may choose to conduct remote interviews even while on-site. Interviews will not take place in a room or area where high-hazard procedures are being or have recently been conducted.

Depending on the specific work task, setting and exposure to other biological or chemical agents, additional OSHA standards may apply. Violations of OSHA standards cited under this inspection guidance will normally be classified as serious.

In health care settings, CSHOs will not enter patient rooms or treatment areas while high-hazard procedures are being conducted. CSHOs will not photograph or take videos of patients and will take all necessary precautions to assure and protect patient confidentiality.

CSHOs will complete walkarounds and leave the establishment's premises promptly, unless they identify violations of OSHA standards, regulations or the general duty clause.

Employer Outreach

OSHA will conduct COVID-19 employer outreach programs. This outreach may include:

- Distributing letters and news releases announcing implementation of the updated COVID-19 NEP;
- Creating seminars on COVID-19-related topics tailored to specific audiences;

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- Working with the national and regional office of federal agencies with similar outreach goals;
- Working with existing cooperative programs;
- Forming new working relationships;
- Working with on-site consultation programs; and
- Sharing information on the rights of workers and responsibilities of the employers to maintain a workplace free from retaliation.

The outreach program will focus on local employers in high-hazard industries, local worker groups and unions, employer associations, insurance companies, local hospitals, occupational health clinics, health organizations, local government, local media, local suppliers of materials or services, professional associations, and temporary employment agencies.

Additional resources can also be found online on OSHA's public [website](#).

Compliance Assistance

OSHA has published multiple [resources](#) to help employers understand and implement this guidance. This guidance will be in effect for one year and likely will be updated on an ongoing basis. It is important for employers to continue to monitor OSHA guidance and requirements to make sure they stay in compliance.

If employers have questions about the NEP, or any of the guidance and requirements, they can [contact](#) OSHA for assistance. OSHA can help with specific issues and provide consultation [services](#) to employers that qualify.