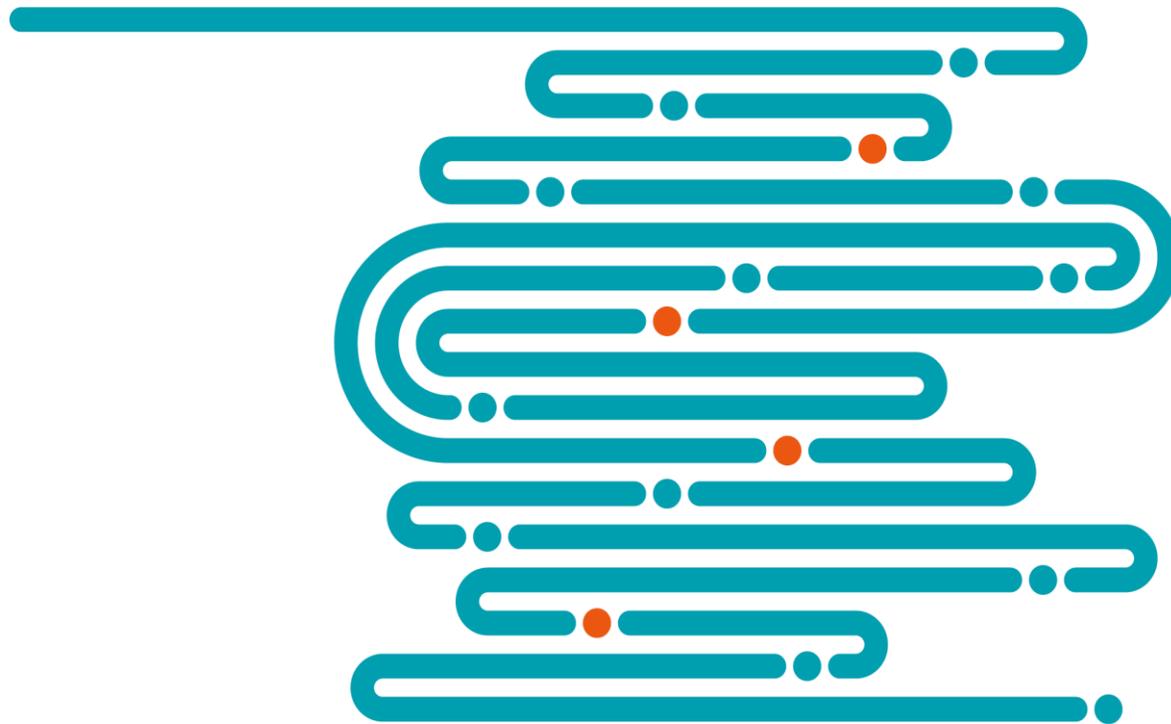


Guidance to OSHA's Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19) April 13, 2020



Key Points

<p>Disclaimer:</p>	<p>This Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19) provides instructions and guidance to Area Offices and compliance safety and health officers (CSHOs) for handling COVID-19-related complaints, referrals, and severe illness reports. The scope of this guidance covers all investigations and inspections specifically related to the workplace hazard of SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), which is the virus causing the current COVID-19 pandemic.</p> <p>This guidance is intended to be time-limited to this current public health crisis. Please see link for a full listing of information: https://www.osha.gov/memos/2020-04-13/interim-enforcement-response-plan-coronavirus-disease-2019-covid-19</p>
<p>General Considerations /Complaint Review</p>	<p>OSHA investigates complaints, referrals, and employer-reported fatalities and hospitalizations to identify potentially hazardous occupational exposures and to ensure that employers take prompt actions to mitigate hazards and protect employees. Complaints 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.</p> <p>Update on reporting requirements: If an employer is not immediately aware of a reportable fatality, in-patient hospitalization, amputation, or loss of an eye that was the result of a work-related incident, a report to OSHA must be made within the following time period after the employer or its agent(s) learns that the reportable event was the result of a work-related incident:</p> <ol style="list-style-type: none"> a. Fatality- 8 hours b. Inpatient hospitalization, amputation, loss of eye- 24 hours c. Employers must report a fatality if it occurs within 30 days of the work-related incident
<p>Inspection decision/considerations</p>	<ol style="list-style-type: none"> 1) OSHA should investigate complaints, referrals, and employer-reported fatalities and hospitalizations to identify potentially hazardous occupational exposures and to ensure that employers take prompt actions to mitigate hazards and protect employees. 2) After OSHA receives a complaint or an employer report of a fatality, in-patient hospitalization, amputation, or loss of an eye as a result of a work-related incident, the Area Director (AD) must determine whether to conduct an inspection or a Rapid Response Investigation (RRI). The RRI is intended to identify any hazards, provide abatement assistance, and confirm abatement. RRIs are encouraged whenever possible. 3) If an on-site inspection is deemed necessary, area directors must maximize the use of electronic means of communication (remote video surveillance, phone interviews, email correspondences, facsimile and email transmittals of documents, video conferences, etc.) throughout their engagement with facilities treating COVID-19 patients. 4) Inspectors should take care to avoid interference with the provision of ongoing medical services.
<p>Whistleblower Protection</p>	<p>Workers requesting inspections, complaining of COVID-19 exposure, or reporting illnesses may be covered under one or more whistleblower statutes.</p>

Complaints, Referrals, and Rapid Response Investigations (RRIs):

Modification to current OSHA field operations manual.	<ul style="list-style-type: none"> Complaint(s) or referral(s) for any general industry, maritime, or construction operation alleging potential exposures to SARS-CoV-2 should be handled in accordance with the general procedures in Field Operations Manual (FOM) Chapter 9, Complaint and Referral Processing, except that this response plan modifies the FOM instruction, “the employer is notified of the alleged hazard(s) or violation(s) by telephone, fax, email, or by letter,” by mandating an initial notification by phone to the employer. In all phone/fax correspondences, Area Offices will assist employers by directing them to publicly available guidance documents on protective measures, e.g., OSHA’s COVID-19 webpage at www.osha.gov/coronavirus. Prior to any inspection related to COVID-19, each area director (AD) should evaluate the risk level of exposure to SARS-CoV-2 at the workplace, and prioritize his or her resources in coordination with his or her regional offices to determine if an on-site inspection is necessary. If the AD determines an on-site inspection is warranted, CSHOs must carefully evaluate potential hazards and limit any possible exposure(s). OSHA will forward complaint information deemed appropriate to federal partners with concurrent interests.
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Inspection/response prioritization based on risk to employees

Risk level	Workers at Risk	OSHA Response
High exposure risk	<p>Workplaces considered to have job duties with high risk of exposures to COVID-19 include, but are not limited to, hospitals treating suspected and/or confirmed COVID-19 patients, nursing homes, emergency medical centers, emergency response facilities, settings where home care or hospice care are provided, settings that handle human remains, biomedical laboratories, including clinical laboratories, and medical transport. High potential for exposure to known or suspected sources of SARS-CoV-2 that occurs during specific medical, postmortem, or laboratory procedures.</p> <p>1) Aerosol-generating procedures, in particular, present a very high risk of exposure to workers.</p> <p style="margin-left: 20px;">A. The aerosol-generating procedures for which engineering controls, administrative controls, and personal protective equipment (PPE) are necessary include, but are not limited to, high flow nasal</p>	<p>During this outbreak, formal complaints alleging unprotected exposures to COVID-19 for workers with a high risk of transmission, such as a fatality that is potentially related to exposures to confirmed or suspected COVID-19 patients while performing aerosol-generating procedures without adequate PPE in a hospital,</p> <p style="color: red; font-weight: bold; margin-top: 10px;">*May warrant an on-site inspection.</p>

	cannula, bronchoscopy, sputum induction, nebulizer therapy, endotracheal intubation and extubation, open suctioning of airways, cardiopulmonary resuscitation and autopsies.	
Medium exposure risk	Medium exposure include those workers with frequent and/or close contact with, i.e., within 6 feet of, people who may be (but are not known to be) infected with SARS-CoV-2. Workers in this risk group may have frequent contact with travelers returning from international locations with widespread COVID-19 transmission. In areas where there is ongoing community transmission, workers in this category, include, but are not limited to, those who have contact with the general public (e.g., in schools, high-population-density work environments, and some high-volume retail settings).	All other formal complaints alleging SARS-CoV-2 exposure, where employees are engaged in medium or lower exposure risk tasks (e.g., billing clerks), will not normally result in an on-site inspection. 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.
Lower exposure risk	Lower exposure risk jobs are those that do not require contact with people known to be, or suspected of being, infected with SARS-CoV-2, nor frequent close contact with, i.e., within 6 feet of, the general public. Workers in this category have minimal occupational contact with the public and other coworkers.	

OSHA Inspection Procedures		Hospital Guidance
High exposure risk	Fatalities and imminent danger exposures related to COVID-19 will be prioritized for inspections, with particular attention given to healthcare organizations and first responders.	<ul style="list-style-type: none"> If the formal inspection can be conducted without accessing a location of suspected or confirmed SARS-Cov-2 exposure, then all possible steps will be taken to avoid such exposure. Attempts will be made to conduct an opening conference in a designated, uncontaminated administrative area. The infection control director, safety director, and/or the health professional responsible for occupational health hazard control should be available. Other individuals responsible for providing records pertinent to the inspection should also be included in the opening conference or interviewed early in the inspection (e.g., facility administrator, training director, facilities engineer, director of nursing, human resources, etc.).

Hospital Guidance for Onsite Program and Document Review

1. Opening conference- should be conducted in a mechanism to protect inspector.
2. Pandemic plan readily available. If it is part of your emergency operations plan, the entire plan will not need to be reviewed. The review will only address issues related to exposure to pandemics.
3. Policy/Procedure for hazard assessment and protocols for PPE use with suspected or confirmed COVID-19 patients
4. Specimen handling policy/procedure
5. Respiratory protection program and any modifiers to respiratory policies related to COVID-19
6. Training records specifically related to COVID-19 exposure (if completed) or training related to preparation for a pandemic.
7. Documentation of provisions made to obtain and provide appropriate and adequate supplies of PPE.
8. Policy/procedure for transferring COVID-19 patients to other facilities.
9. Placement of patients with confirmed and suspected COVID-19 currently and within the last 30 days.
10. Documentation of implementing a hierarchy of controls for worker protection, i.e., engineering controls, administrative controls, work practices, or PPE (including a respiratory protection program). Such documentation can be in the form of photos or design specifications.
11. Employee exposure control plan: Injury/Illness Records. Inspectors will 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 SARS-CoV-2.

NOTE: The CDC currently recommends that healthcare personnel (HCP) who are providing direct care of patients with known or suspected COVID-19 implement robust infection control procedures. These include engineering controls (e.g., airborne infection isolation rooms), administrative controls (e.g., cohorting patients, designated HCP), work practices (e.g., handwashing, disinfecting surfaces), and appropriate use of PPE, such as gloves, face shields or other eye protection, and gowns.

Guidance for the walk-around OSHA Inspection

- The facility will be inspected (e.g., emergency rooms, respiratory therapy areas, bronchoscopy suites, and morgue) based on information from the program and document review.
- Inspectors will have their PPE with them. They will need to know where donning, doffing, and decontamination can be done, as well as the location of additional PPE (if available) and decontamination waste disposal facilities are located. COVID-19 can be contracted via person-to-person contact and respiratory droplets, so strict adherence to use of PPE is essential. The minimum level of respiratory protection for CSHOs is a fit-tested half-mask elastomeric respirator with at least an N95 filter. CSHOs will also be equipped, at a minimum, with goggles, disposable gloves, and disposable gowns or coveralls of appropriate size. CSHOs must also ask employers if there are any facility-imposed PPE requirements and adhere to those PPE requirements during the inspection.
- Inspectors should not enter patient rooms or treatment areas while high hazard procedures are being conducted. Photographs or videotaping where practical should be used for case documentation, such as recording smoke-tube testing of air flows inside or outside an AIIR. However, under no circumstances shall inspectors photograph or take video of patients.
- Inspectors should avoid potential exposure to suspected or confirmed COVID-19 patients. It is not generally necessary for them to enter patient rooms or airborne isolations areas. Inspectors shall not enter rooms occupied by COVID-19 patients or airborne infection isolation rooms (AIIRs) to evaluate compliance.

Citation Guidance

Enforcement discretion will be used when considering issuing citations under 29 CFR § 1910.134(d) and/or the equivalent respiratory protection provisions of other health standards in cases where:

- 1) Other feasible measures, such as using partitions, restricting access, cohorting patients (healthcare), or using other engineering controls, work practices, or administrative controls that reduce the need for respiratory protection, were implemented to protect employees.
- 2) The employer has made a good faith effort to obtain other appropriate, alternative FFRs, reusable elastomeric respirators, or PAPRs, including NIOSH-certified equipment or equipment that was previously NIOSH-certified but that has surpassed its manufacturer's recommended shelf life (in accordance with OSHA's April 3 memo);
- 3) The employer has monitored their supply of N95s and prioritized their use according to CDC guidance (www.cdc.gov/coronavirus/2019-ncov/release-stockpiled-N95.html; www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html); and

Potential Outcomes

- **Employer Letter for COVID-19 Activities that notes:**
This letter is not a citation or a notification of proposed penalty which, according to the Occupational Safety and Health Act, may be issued only after an inspection or investigation of the workplace. Please take immediate corrective action where needed. The letter will contain the details and required written response.
 - **Hazard Alert Letter for COVID-19 Inspection:**
It will be adapted to the specific circumstances noted in the relevant inspection. If the facility has implemented, or is in the process of implementing, efforts to address hazardous conditions, those efforts should be recognized and encouraged, if appropriate. You may voluntarily provide progress reports on your efforts to address COVID-19 hazards in your workplace. OSHA may return to your worksite to further examine the conditions noted above.
- Alleged Violation Description (AVD) for Citations reflect specific conditions found at establishments gives notice to employers of the hazardous

<p>4) Surgical masks and eye protection (e.g., face shields, goggles) were provided as an interim measure to protect against splashes and large droplets (note: surgical masks are not respirators and do not provide adequate protection during aerosol-generating procedures).</p> <p>5) Where the above efforts are absent and respiratory protection use is required, or voluntary use is permitted, and an employer fails to comply with fit testing, maintenance, care, and training requirements, cite the applicable provision (s) of 29 CFR § 1910.134 and/or other applicable expanded health standards as serious violations.</p>	<p>conditions or practices cited. Section 5(a)(1) of the Occupational Safety and Health Act: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were not protected from the hazard of contracting the virus, SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of Coronavirus Disease 2019 (COVID-19).</p> <p>Note: COVID-19 inspections are considered novel cases. The Directorate of Enforcement Programs (DEP) must be notified of all proposed citations and federal agency Notices that relate to a COVID-19 exposure.</p>
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OSHA Guidance Documents

The full interim enforcement response for complaints related to COVID-19 can be found at: <https://www.osha.gov/memos/2020-04-13/interim-enforcement-response-plan-coronavirus-disease-2019-covid-19#attach1>

OSHA Guidance:

- Preventing Worker Exposure to Coronavirus (COVID-19), OSHA publication 3989, www.osha.gov/Publications/OSHA3989.pdf.
- Guidance on Preparing for COVID-19, (OSHA publication 3990), www.osha.gov/Publications/OSHA3990.pdf.
- OSHA Memorandum - Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak, March 14, 2020, www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit.
- OSHA Memorandum - Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic, April 8, 2020, www.osha.gov/memos/2020-04-08/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95.
- OSHA Memorandum - Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic, April 3, 2020, www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus.
- OSHA Memorandum - Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic, April 3, 2020, www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under.
- OSHA Memorandum - Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19), April 10, 2020, www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19.
- OSHA Respiratory Protection standard, 29 CFR § 1910.134:
 - www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134;
 - www.osha.gov/SLTC/respiratoryprotection/index.html.
- OSHA Personal Protective Equipment standard:
 - www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.132;
 - www.osha.gov/SLTC/personalprotectiveequipment/index.html.