

OSHA Launches National Emphasis Program and Revises Enforcement Procedures Related to COVID-19

Alert

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By Brittany Barrientos, Jessica Knox & Greta Bauer Reyes

As mandated in President Biden's January 21 Executive Order on Protecting Worker Health and Safety, the Department of Labor (DOL) on March 12 issued the latest piece of the puzzle with a [National Emphasis Program – Coronavirus Disease 2019 \(COVID-19\)](#) and [Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#). OSHA did not discuss whether the National Emphasis Program and Updated Interim Enforcement Response Plan are part of a larger enforcement strategy with an Emergency Temporary Standard (ETS), or are freestanding or in lieu of an ETS.

The National Emphasis Program (NEP) was launched to protect employees in high-risk industries or work tasks from COVID-19 hazards. The NEP targets workplaces that pose an increased potential exposure risk to their workers of contracting COVID-19 and sets out requirements for inspections. Some of the primary targets for the program are: physicians, dentists, hospitals, care facilities, meat processing plants, supermarkets, discount department stores, warehouse and storage facilities, temporary help services, restaurants and correctional institutions. A complete list of industries is listed on [Appendix A and B](#). Most inspections will be conducted in person. However, in limited circumstances, remote-only inspections may be allowed.

OSHA may begin inspections as early as March 26. OSHA does not normally initiate an inspection until a 90-day outreach is completed, but given the level of outreach throughout the COVID-19 pandemic, the required 90-day outreach period has been met. Upon inspection, if a workplace is determined to be in violation, OSHA will issue a Hazards Alert Letter to the facility indicating any violations that were observed.

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The NEP also ensures workers are protected against retaliation from their employers by distributing anti-retaliation information during inspections, providing outreach opportunities, and referring allegations of retaliation to the Whistleblower Protection Program.

States are not required to adopt the NEP, but are encouraged to do so. Within 60 days (by May 11), a state must:

- Indicate whether it already has a similar policy in place to the NEP, plans to adopt new policies and procedures, or does not intend to adopt the NEP
- Provide an electronic copy of the policy or link to where it is posted on their website
- Provide the date of adoption and indicate any differences between its policy and OSHA's, if any

In addition to the NEP launch, OSHA updated the Interim Enforcement Response Plan. Under the new guidance, OSHA will:

- Continue to implement the U.S. DOL's COVID-19 Workplace Safety Plan to reduce the risk of COVID-19 transmission during inspections
- Prioritize COVID-19 related inspections involving deaths or multiple hospitalizations due to COVID-19 exposure in the workplace
- Perform on-site inspections when practical

With OSHA implementing this new plan, all employers, but especially employers in the primary target industries should prepare for increased OSHA inspections and enforcement efforts and should continue to implement procedures to reduce the risk of COVID-19 in their workplace.

As you know, these procedures are evolving and can necessitate regular reevaluation. We are monitoring implementation of President Biden's executive orders related to worker health and safety. [Keep up to date with our tracker.](#)

CONTACTS

Brittany Barrientos

Alisa Nickel Ehrlich

Jessica L. Knox

Greta Bauer Reyes

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