

Walden Environmental Engineering Webinar on OSHA COVID Regulations/Enforcement

Providing environmental consulting, civil/environmental engineering, Industrial Hygiene and Geographic Information Systems services since 1995.

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TOPICS of the webinar (outline):



- **Where we left off from 11/9/2020 - The Likely changes based on Biden Administration**
- **Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace (revision published by OSHA on 1.29.2021)**
- **Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19) (published by OSHA on 3.12.2021)**
- **National Emphasis Program – COVID-19 (published by OSHA on 3.12.2021)**
- **More to come....EMERGENCY TEMPORARY STANDARD (ETS) for COVID 19**

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Likely (OSHA) changes based on Biden Administration

BACK in 11/2020.....From <https://joebiden.com/covid-plan/>



....[....]..Direct the OSHA to:

1. Keep frontline workers safe by issuing an **Emergency Temporary Standard** that requires health care facilities to implement comprehensive infectious disease exposure control plans;
2. **Increasing the number of OSHA investigators** to improve oversight; and
3. **Working closely with state occupational safety and health agencies** and state and local governments, and the unions that represent their employees, to ensure comprehensive protections for frontline workers.

TIMING?: within 15 days of taking office (1/20/2021)

(OSHA) changes based on Biden Administration

BIDEN issued an Executive Order on 1/21/21:

[Click for Executive Order](#)

Specifically, Section 2 of the Executive Order had **5 points** that OSHA needed to implement:

- (a) issue, within 2 weeks of the date of the order, a **revised guidance** to employers on workplace safety during the COVID-19 pandemic;
- (b) consider whether any **emergency temporary standards** on COVID-19 are necessary, and **if** such standards are determined to be **necessary**, issue them **by March 15, 2021**;
- (c) **review the enforcement efforts** related to COVID-19;
- (d) **launch a national program** to focus OSHA enforcement efforts related to COVID-19 on violations; and
- (e) in coordination with the DOL and all regional OSHA offices **to conduct a multilingual outreach campaign** to inform workers and their representatives of their rights.

(OSHA) changes based on Biden Administration

In respect to the 5 points, as of 3/25/2021 OSHA has completed the following:

- (a) OSHA issued the Guidance on 1/29/21.
- (b) The ETS has not been issued, yet. OSHA missed the 3/15/21 deadline.
- (c) On 3/12/21 OSHA revised and published the enforcement plan.
- (d) On 3/12/21 OSHA launched the enforcement program.
- (e) Spanish Resources are available on OSHA's website (<https://www.osha.gov/coronavirus>).

Today's presentation will focus on the

- Guidance,
- the enforcement plan ,
- the enforcement program.

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Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace (revision published by OSHA on 1.29.2021)



osha.gov/coronavirus

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UNITED STATES DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CONTACT US FAQ A TO Z INDEX ENGLISH ESPAÑOL

OSHA STANDARDS TOPICS HELP AND RESOURCES

SEARCH OSHA

Home / Coronavirus Disease (COVID-19)

Coronavirus Disease (COVID-19)

Workers and employers are seeking new ways to provide service while keeping their workforce and others safe. Get information for implementing COVID-19 procedures to prevent exposure, infection, and spreading.

- OSHA Requirements**
 - Regulations
 - NEW National Emphasis Program
 - NEW Enforcement Memoranda
 - Recording and Reporting
 - Reporting and Recording Enforcement
- Guidance**
 - For Everyone
 - NEW Mitigating and Preventing the Spread of COVID-19 in the Workplace
 - Highlights (Spanish)
 - Hazard Recognition
- Highlights and Tools**
 - What's New
 - Spanish Resources
 - Additional Resources
 - CDC Coronavirus (COVID-19) Page
 - CDC Workplaces and Businesses Page

2/11/2021 Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace | Occupational Safety and Health

COVID-19 / Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

OSHA will update this guidance over time to reflect developments in science, best practices, and standards.
Guidance posted **January 29, 2021**

On this Page

- Executive Summary
- Purpose
- About COVID-19
- What Workers Need To Know about COVID-19 Protections in the Workplace
- The Roles of Employers and Workers in Responding to COVID-19
- Additional Detail on Key Measures for Limiting the Spread

Executive Summary

This guidance is intended to inform employers and workers in most workplace settings outside of healthcare to help them identify risks of being exposed to and/or contracting COVID-19 at work and to help them determine appropriate control measures to implement. Separate guidance is applicable to healthcare (CDC guidance) and emergency response (CDC guidance) settings. OSHA has additional industry-specific guidance. This guidance contains recommendations as well as descriptions of mandatory safety and health standards. The recommendations are advisory in nature, informational in content, and are intended to assist employers in providing a safe and healthful workplace.

COVID-19 is a highly infectious disease that is spread most commonly through respiratory droplets and particles produced when an infected person exhales, talks, vocalizes, sneezes, or coughs. COVID-19 is highly transmissible and can be spread by people who have no symptoms. Particles containing the virus can travel more than 6 feet, especially indoors, and can be spread by individuals who do not know they are infected.

Face Coverings, either cloth face coverings or surgical masks, are simple barriers that help prevent respiratory droplets from your nose and mouth from reaching others. Face coverings protect those around you, in case you are infected but do not know it, and can also reduce your own exposure to infection in certain circumstances. Wearing a face covering is complementary to and not a replacement for physical distancing.

Employers should implement COVID-19 Prevention Programs in the workplace. The most effective programs engage workers and their union or other representatives in the program's development, and include the following key elements: conducting a hazard assessment; identifying a combination of measures that limit the spread of COVID-19 in the workplace; adopting measures to ensure that workers who are infected or potentially infected are separated and sent home from the workplace; and implementing protections from retaliation for workers who raise COVID-19 related concerns.

<https://www.osha.gov/coronavirus/whatsnewworkpurpose>

1/11





Guidance on Mitigating and Preventing the Spread of COVID-19 – Notable Additions

- Revision published by OSHA on 1.29.2021 with the goal of educating employers and employees on best practices to mitigate and prevent the spread of COVID-19.
- Available from CDC website or Walden.
(<https://www.osha.gov/coronavirus/safework>)
- Places emphasis on improved ventilation, employee outreach (documents should be produced in languages that benefit the employees), face coverings, and implementing a COVID-19 prevention program, among other items.
- “14. Making a COVID-19 vaccine or vaccination series available at no cost to all eligible employees.
Provide information and training on the benefits and safety of vaccinations.”

Details : HVAC and UVC Use (control planning and system updates)

- HVAC systems can be modified to increase fresh air flow (air turnover) in the business.
- UV-C light has been documented to kill COVID, HVAC systems can be retro-fitted to include UV-C lights to ensure all air is treated during circulation. UV-C light + aerosol = diminished virus concentration.
- CDC / ASHRAE recommend a minimum of 6 air changes/hour (ACH) for ventilation.

Details (cont.): HVAC and UVC Use (control planning and system updates)

- The keys to protecting employees from the spread of the COVID virus in the work place are: social distancing; and ensuring all staff wear face masks. These actions serve to contain aerosol, viral particles in the face covering and dilute the concentrations of the virus, decreasing the amount of transmission.
- Detailed evaluations of HVAC equipment, current system settings and options for modification by a professional can allow you to increase fresh air in your indoor workplace, and reduce the potential for COVID transmission.
- Minimum filter guidelines per the CDC and ASHRAE are MERV 13.



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OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

The Plan provides new instructions and guidance to Area Offices and Compliance Safety and Health Officers (CSHOs) on how to:

1. Prioritize inspections (based on risk levels) → see also NEP (discussed later)

2. Handle complaints, referrals and programmed inspections

3. Conduct inspections (including OSHA applicable standards). Inspections can be done in person or phone/video conference. OSHA intent is to **minimize** in-person meeting, unless it is **necessary** to do so.

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

The big change is on the classification of risk of worker exposure:

Manufacturing was on medium/low risk, now is classified under HIGH RISK.

High Exposure Risk

Jobs with a high potential for exposure to known or suspected sources of SARS-CoV-2. Examples of workers in this category include:

- ***[...]***
- Those who have frequent or sustained contact with coworkers, including under close working conditions [indoors or in poorly ventilated spaces](#) in various types of industrial, manufacturing, agriculture, construction, and other [critical infrastructure workplaces](#).
- ***[...]***

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

2. Complaints, Referrals, and Rapid Response Investigations (RRIs) – *MINOR CHANGES* from previous PLAN → see also National Emphasis Program (*NEP*) discussed later.

3. Inspection Scope, Scheduling, and Procedures: *no significant CHANGES.*

a) Opening Conference (Meeting)

b) Program and Document Review

- *Written pandemic plan as recommended by the CDC*
- *Review the facility's procedures for hazard assessment and protocols for PPE use*
- *Review other relevant information, such as medical records related to worker exposure incident(s), OSHA-required recordkeeping*
- *Review the respiratory protection program (29 CFR 1910.134)*

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

b) Program and Document Review (cont.)

- **Review employee training records**, including any records of training related to COVID-19 exposure prevention
- Determine and document whether the employer has considered or implemented 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.

c) Walkaround

- In some instances (e.g. rooms where aerosol-generating tasks are performed) inspector might test **a room's ventilation or air flow**
- As appropriate to the inspection, the inspector can conduct private interviews

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

OSHA APPLICABLE STANDARDS → NO CHANGES, waiting for the ETS

- ❖ 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illness.
- ❖ 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 § 1910.141, Sanitation.
- ❖ 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 Occupational Safety and Health (OSH) Act of 1970 → (1) The employer failed to keep the **workplace free of a hazard** to which employees of that employer were exposed; (2) **The hazard was recognized**; (3) **The hazard was causing or was likely to cause death or serious physical harm**; and, (4) **There was a feasible and useful method to correct the hazard.**

Standard : MOST CITED

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

OSHA APPLICABLE STANDARDS – *Common Citations*

- ❖ 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illness.
 1. Failed to provide records of fatalities, injuries and illnesses (1904.4)
→ **COVID 19 tracing and Communication with Local Health Dept..**
 2. Employees and their representatives must be involved in the recordkeeping system → (1904)

[Source \(OSHA Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)\)](#)

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

OSHA APPLICABLE STANDARDS

❖ 29 CFR § 1910.134, Respiratory Protection.

1. 1910.134 (a)(1). In the control of occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, **sprays**, or vapors, the primary objective shall be to **prevent atmospheric contamination**. This shall be accomplished by accepted engineering control measures.... or (when EC not feasible) appropriate PPE (respirators)
2. 1910.134 (c). Implement a respiratory protection program → **part of a SAFETY PLAN to address COVID19 exposure**

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

OSHA APPLICABLE STANDARDS

❖ 29 CFR § 1910.134, Respiratory Protection.

3. 1910.134 (d). Selection of appropriate respirator → **NOTE: cloth face masks are not PPE, however if you have N95 (+) those are PPE.**
4. 1910.134 (f). FIT testing → **NOTE:, only for N95 (+), not for cloth face masks, since they are not PPE.**
5. 1910.134 (g). Proper use of respirator → **NOTE:, only for N95 (+), not for cloth face masks, since they are not PPE.**
6. 1910.134 (k). Training and information.

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

OSHA APPLICABLE STANDARDS

TRAINING (multiple standards)

OSHA says: *Provide training, education, and informational materials about the risk of SARS-CoV-2 exposure associated with workers' job tasks and activities.*

- a. PPE (if used). → in this case *ALSO face cloth masks*
- b. Explain how to use basic hygiene (e.g., hand washing, covering mouth and nose with a tissue when coughing or sneezing) and social distancing
- c. Ensure materials are easily understood and available in the appropriate language and educational level for all workers.
- d. Post signs asking workers, customers, and the general public to follow basic hygiene practices.

OSHA Guidance on COVID-19 Enforcement Plan 3/12/2021 Rev.

ADDITIONAL INFO. Samples of letters for INSPECTION, COMPLAINT and VIOLATION (General Duty Clause)

Att. 2 Sample Employer Letter for COVID-19 Complaint

Att. 3 Sample Hazard Alert Letters for a COVID-19 Inspection

Att. 4 Sample Alleged Violation Description (AVD) for citing the General Duty Clause

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National Emphasis Program – NEP (As of 3.12.2021)

The NEP has been issued “...to ensure that employees in **high-hazard industries** are protected from....COVID-19...” and “augments OSHA’s efforts addressing unprogrammed, COVID-19-related activities e.g.:

- complaints,
- referrals,
- and severe incident reports,

by [...]...**targeting specific high-hazard industries** or activities where this hazard is prevalent. The NEP targets establishments that have workers with increased potential exposure to this hazard, and that puts the largest number of workers at serious risk. In addition, this NEP includes an added focus to ensure that **workers are protected from retaliation** and are accomplishing this by preventing retaliation where possible....”

National Emphasis Program – NEP

The NEP will expire on 3/12/2022 unless extended (or cancelled before)

The NEP GOAL:

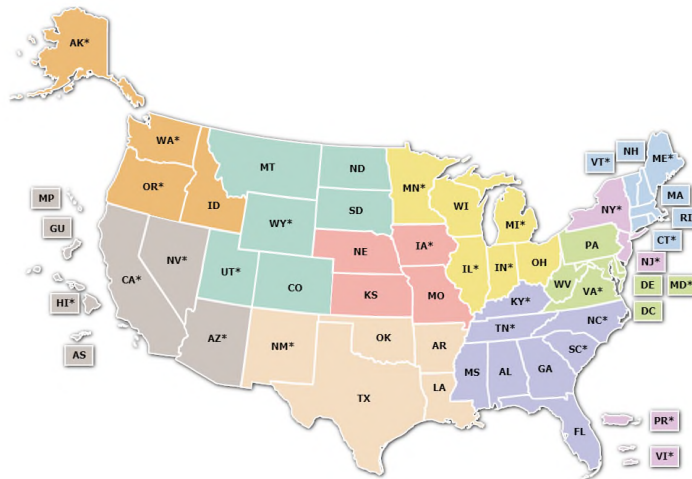
“...significantly reduce or eliminate worker exposures to SARS-CoV-2 by **targeting industries and worksites** where employees may have a **high frequency of close contact exposures** and therefore, controlling the health hazards associated with such exposures. This goal will be accomplished by a combination of **inspection targeting, outreach to employers, and compliance assistance.**

CDC definition of CLOSE CONTACT: someone who has been within 6 feet of an infected person (laboratory-confirmed or a clinically compatible illness) for a cumulative total of 15 minutes or more over a 24-hour period (*for example, three individual 5-minute exposures for a total of 15 minutes in one day*).

National Emphasis Program – NEP

The NEP GOAL (cont.):

“In each Region, the goal of this NEP is to continue performing a high percentage of COVID-19 inspections (**at least 5 percent**) of the Region’s total assigned inspection goal (which is approximately **1,600 inspections** OSHA-wide)....”



5% of 1,600 = 80 inspections

National Emphasis Program – NEP

NEP Procedures – Facility Specific

A. GENERAL (*Establishments with fewer than 10 workers shall be included in this NEP*)

B. SITE SELECTION

C. INSPECTION SCHEDULING

D. INSPECTION PROCEDURE

National Emphasis Program – NEP

B. SITE SELECTION

1. MASTER LIST GENERATION.
2. ADDITIONS
3. DELETIONS.
4. CYCLE GENERATION.
5. MAINTAINING INSPECTION LIST/CYCLES AND DOCUMENTATION.

National Emphasis Program – NEP

B. SITE SELECTION

1. MASTER LIST GENERATION.

For programmed inspections, the NEP will generate 2 Master Lists for site selection.

- Master List 1 : all establishments with NAICS code listed in Appendices A and B. Each Area Office will use the Establishment Targeting List–Generation System (ListGen) for generating a (random) master list
- Master List 2: *establishments having a NAICS code listed in Appendices A and B **and** having an elevated illness rate as indicated by Form 300A data. (CY 2020)*

OSHA Area Offices will use either list or a combination of the 2 lists to meet their inspection goals.

National Emphasis Program – NEP – APPENDIX A

Table 1. Targeted Industries in Healthcare by 2017 NAICS

NAICS Code	Industry
621111	Offices of Physicians (except Mental Health Specialists)
621210	Offices of Dentists
621610	Home Health Care Services
621910	Ambulance Services
622110	General Medical and Surgical Hospitals
622210	Psychiatric and Substance Abuse Hospitals
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals
623110	Nursing Care Facilities (Skilled Nursing Facilities)
623210	Residential Intellectual and Developmental Disability Facilities
623311	Continuing Care Retirement Communities
623312	Assisted Living Facilities for the Elderly

Table 2. Targeted Industries for non-Healthcare by 2017 NAICS

NAICS Code	Industry
311612	Meat Processed from Carcasses
311611	Animal (except Poultry) Slaughtering
311615	Poultry Processing
445110	Supermarkets and Other Grocery (except Convenience) Stores
452112	Discount Department Stores
493110	General Warehousing and Storage
561320	Temporary Help Services*
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
922140	Correctional Institutions

* not be automatically included in the targeting list for programmed inspections

Tables 1 and 2 provide lists of NAICS codes in general industry where OSHA data shows highest amount of workers expected to perform tasks associated with exposure to SARS-CoV-2. Tables 1 and 2 in this appendix comprise the NAICS codes for top healthcare and non-healthcare industries with OSHA enforcement activities related to COVID-19 over the past year.

National Emphasis Program – NEP – APPENDIX B

Table 1. Supplemental Industries for non-Healthcare in Essential Critical Infrastructure

NAICS Code	Industry	CISA v4.0 Sector
11xxxx	Agriculture, Forestry, Fishing and Hunting	Food and Agriculture
236XXX	Construction of Buildings *	Construction
237XXX	Heavy and Civil Engineering Construction*	Construction
238XXX	Specialty Trade Contractors*	Construction
311xxx	Food Manufacturing ★	Food and Agriculture
3121xx	Beverage Manufacturing	Food and Agriculture
321xxx	Wood Product Manufacturing	Food and Agriculture
322xxx	Paper Manufacturing	Food and Agriculture
32412x	Asphalt Paving, Roofing, and Saturated Materials Manufacturing	Energy
32419x	Other Petroleum and Coal Products Manufacturing	Energy
325xxx	Chemical Manufacturing	Chemical
326xxx	Plastics and Rubber Product Manufacturing ★	Transportations and Logistics; Critical Manufacturing
327xxx	Nonmetallic Mineral Product Manufacturing	Critical Manufacturing
331xxx	Primary Metal Manufacturing	Critical Manufacturing

Appendix B (only has table 1) contains a list of NAICS codes for non-healthcare essential workers who are likely to have the highest frequency of close contact exposures to the public or to coworkers resulting from their on-site work-related duties.

These industries have been deemed essential to operations that maintain critical business operations or would otherwise help to maintain a healthy work environment and are likely to have exposures to COVID-19.

NOTE: Industries in Table 1 are to be used **to supplement selections from Appendix A** when generating Master List 1 for COVID-19 NEP targeting.

National Emphasis Program – NEP – APPENDIX B

NAICS Code	Industry	CISA v4.0 Sector
332xxx	Fabricated Metal Product Manufacturing ★	Critical Manufacturing
333xxx	Industrial Machinery Manufacturing	Transportations and Logistics; Critical Manufacturing; Food and Agriculture
334xxx	Computer and Electronic Product Manufacturing	Critical Manufacturing
335xxx	Electrical Equipment, Appliance, and Component Manufacturing	Commercial Facilities; Energy; Critical Manufacturing; Communications and Information Technology
336xxx	Transportation Equipment Manufacturing*	Transportation and Logistics; Critical Manufacturing; Defense Industrial Base
33711x	Wood Kitchen Cabinet and Countertop Manufacturing	Commercial Facilities
3399xx	Other Miscellaneous Manufacturing	Critical Manufacturing; Government Facilities; Transportation and Logistics
44422x	Nursery, Garden Center, and Farm Supply Stores	Food and Agriculture
445xxx	Additional Food and Beverage Stores	Food and Agriculture
4523xx	General Merchandise Stores, including Warehouse Clubs and Supercenters	Food and Agriculture
4851xx	Urban Transit Systems	Transportation and Logistics
4852xx	Interurban and Rural Bus Transportation	Transportation and Logistics
4854xx	School and Employee Bus Transportation	Transportation and Logistics
485991	Special Needs Transportation	Transportation and Logistics
491xxx	Postal Service*	Transportation and Logistics
54142x	Industrial Design Services	Critical Manufacturing
811219	Other Electronic and Precision Equipment Repair and Maintenance	Commercial Facilities
81131x	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	Commercial Facilities

Table 1 (cont.)

Note: The industries listed in Table 1 are subject to change and may see increased attention from local inspectors if said industry had a high COVID-rate or a high level of COVID related complaints in 2020.

National Emphasis Program – NEP

2. ADDITIONS

Area Offices may add establishments to the generated master lists based on information from appropriate sources (e.g., local knowledge of establishments, commercial directories, referrals from the **local health department...**)

3. DELETIONS.

Area Offices may delete from their target list establishments with a **comprehensive or partial inspection occurred within the 12 previous months** and resulted in one of the following outcomes:

- a. Serious citations, under contest or abatement period not yet expired; or
- b. No serious citations; or
- c. Serious citation(s) but a follow-up inspection documented appropriate and effective efforts by the employer to abate the serious hazards cited.

National Emphasis Program – NEP

4. CYCLE GENERATION.

ListGen assigns **random** numbers and provides the Master List in Random Number order.

Subsequent cycles will be created until the NEP is cancelled or until all establishments on the list have been assigned to a cycle. Cycles may be created all at once or as necessary, and need not be of the same size.

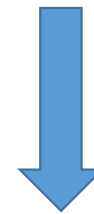
5. MAINTAINING INSPECTION LIST/CYCLES AND DOCUMENTATION.

The OSHA Area Director is responsible for maintaining documentation necessary to demonstrate that the Area Office has used the NEP inspection list and cycles in accordance with NEP, including documenting all deletions, deferrals, or other modifications.

National Emphasis Program – NEP

C. INSPECTION SCHEDULING

1. UNPROGRAMMED INSPECTIONS.
2. FOLLOW-UP INSPECTIONS.
3. PROGRAMMED INSPECTIONS.
4. WHISTLEBLOWER PROTECTIONS.
5. COOPERATIVE PROGRAMS.



NOTE: 1, 2 and 3 are in order of PRIORITY.

The highest priority should be given to (a) **fatality inspections** related to COVID-19 and then to (b) **other unprogrammed inspections**. Area Offices may schedule (c) **follow-up inspections** related to COVID-19 hazards to meet the goals of this NEP where unprogrammed activities have decreased enough to allow them to do so. In areas where both unprogrammed and follow-up COVID-19-related inspections do not enable offices to meet the goals of the NEP, (d) **programmed inspections** may take priority over follow-up inspections.

National Emphasis Program – NEP

1. UNPROGRAMMED INSPECTIONS. (either on site and/or remote)

a) FATALITY/CATASTROPHE

OSHA will Continue to prioritize COVID-19 **fatality events** for inspection (workplaces with a higher potential for COVID-19 exposures, such as hospitals, assisted living, nursing homes and other healthcare and emergency response providers)

b) COMPLAINTS AND REFERRALS

Allegations of **potential worker exposures** to SARS-CoV-2 (e.g., insufficient PPE), or **involving workers suspected or confirmed positive** for COVID-19, shall be treated as having priority for conducting an on-site inspection and OSHA will exercise discretion in determining the order in which each establishment is assigned for inspection.

National Emphasis Program – NEP

2. FOLLOW-UP INSPECTIONS.

Priority of inspections:

- a) Initial follow-up inspections for establishments that were previously inspected as a result of a COVID-19-related fatality and cited.
- b) Additional follow-up inspections should be conducted for any establishment receiving deferred violations
- c) then for establishments receiving serious violations
- d) other-than-serious citations

OTHER FACTOR DETERMINING THE SELECTION FOR FOLLOW-UP INSPECTION:

- a. The establishment previously received an other-than-serious **recordkeeping and reporting violation(s)**; or
- b. A previously **inspected employer** allegedly **continues to expose employees to SARS-CoV-2**, or has not fully and properly implemented required engineering controls, work practices, or
- c. If there are any **violations for which abatement has not been provided**.

National Emphasis Program – NEP

3. PROGRAMMED INSPECTIONS.

a. High-hazard Industries.

- Appendix A
- Appendix B

b. Site-Specific Targeting (SST).

Establishment can be inspection concurrently under this NEP and SST (using employer-submitted Form 300A data for calendar years (CY) 2017-2019)

c. Procedure.

Sites shall be inspected using either on-site or a combination of on-site and remote methods.

d. Construction.

Establishment can be inspection concurrently under this NEP and SST the current Inspection Scheduling for Construction,

National Emphasis Program – NEP

4. WHISTLEBLOWER PROTECTIONS.

Workers requesting inspections, complaining of SARS-CoV-2 exposure, or reporting injuries or illnesses or retaliation, may be covered under one or more whistleblower protection statutes.

5. COOPERATIVE PROGRAMS.

Employers participating in cooperative programs may be exempt from programmed inspections.

National Emphasis Program – NEP

D. INSPECTION PROCEDURE

1. OSHA may begin to initiate inspections under this NEP on the effective date (3/12/2021) Targeting should begin at least two weeks after the date of issuance,
2. For procedures refer to the enforcement plan mentioned prior (slide 13 of this presentation).
3. Once an inspection has been scheduled for an identified establishment, and prior to opening the inspection, OSHA will conduct a search of the employer's citation and fatality/ accident history.

National Emphasis Program – NEP

D. INSPECTION PROCEDURE (CONT.)

4. At the opening conference, OSHA review the establishment's injury and illness logs (OSHA 300 and OSHA 300A) for calendar years 2020 and 2021 to date to identify work-related cases of COVID-19 (also interviewing employee(s) at the site). If it is determined that:

- a) **no such work assignments, recorded cases or reports of positive or suspected COVID-19 exposures resulting in lost work time, hospitalizations or fatalities occurred**, and
- b) the inspection was initiated as a **programmed** inspection

→ OSHA WILL NOT PROCEED WITH THE INSPECTION!!

National Emphasis Program – NEP

D. INSPECTION PROCEDURE (CONT.)

5. PLEASE REMEMBER THAT:

ALL HEALTH/SAFETY HAZARDS OBSERVED IN THE COURSE OF ANY INSPECTION CONDUCTED UNDER THIS NEP WILL BE APPROPRIATELY ADDRESSED BY OSHA AND MAY BE REFERRED FOR A LATER INSPECTION(S).

Additional TOPICS of the webinar



- **OSHA Complaints, Inspections, Citations & Violations related to COVID**
 - **As of April 20th, 2020 (Records began on February 1, 2020)**
 - **661 Complaints, 73 Inspections in NY and NJ**
 - **25 Citations in NY (all of which were healthcare facilities)**
 - **As of Today March 26th, 2021**
 - **2,223 Complaints, 450 Inspections in NY and NJ**
 - **70 Citations in NY**
 - **As of October 15th, 2020**
 - **112 Violations for \$1,603,544 Nationwide**
 - **As of Today March 26th, 2021**
 - **300 Violations issued totaling \$3,930,381 nationwide**

Violations – Other 49 States

3/22/2021 – OSHA – 300 Violations for \$3,930,381

- <https://www.foodmanufacturing.com/safety/news/21199773/conagra-jbs-among-27-new-firms-fined-for-covid-violations>
 - Implement a [written respiratory protection program](#);
 - Provide a medical evaluation, respirator fit test, training on the proper use of a respirator and personal protective equipment;
 - [Report](#) an injury, illness or fatality;
 - Record an injury or illness on OSHA [recordkeeping forms](#); and
 - Comply with the [General Duty Clause](#) of the Occupational Safety and Health Act of 1970
-
- Inspection with COVID-related Citations
<https://www.osha.gov/enforcement/covid-19-data/inspections-covid-related-citations>

OSHA COVID19 inspections and citations

COVID19 related Complaints & Inspections by OSHA Region

Source: OSHA.gov

Complaints

OSHA Region										
Date	1	2	3	4	5	6	7	8	9	10
3/14/2021	2,295	2,195	1,641	2,878	3,482	1,533	795	945	173	255
3/07/2021	2,276	2,175	1,627	2,865	3,448	1,527	791	928	165	223

Inspections

OSHA Region										
Date	1	2	3	4	5	6	7	8	9	10
3/14/2021	155	448	108	224	447	201	109	58	43	35
3/07/2021	151	440	105	224	444	200	109	57	43	35

NEW YORK and NEW JERSEY

Total complaints as of 3/14/2021= 2,195



OSHA Regional Offices

- Region 1: Boston
- Region 2: New York
- Region 3: Philadelphia
- Region 4: Atlanta
- Region 5: Chicago
- Region 6: Dallas
- Region 7: Kansas City
- Region 8: Denver
- Region 9: San Francisco
- Region 10: Seattle



WALDEN RECOMMENDATION:

Walden's Final Thought - though the ETS has yet to be released, there is no indications that it wont be released. Walden continues to review all items related to COVID especially those with relations to OSHA. Once the ETS is released, Walden will review and issue a statement regarding its effect on relevant industries.

Walden recommends:

- *Conducting a third party audit of current operations - to identify blind spots and review recording keeping and overall compliance with existing (and projected) osha applicable standards.*

QUESTIONS?

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