
OSHA launches program to protect high-risk workers from coronavirus

In response to President Biden's executive order on protecting worker health and safety, the U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) has launched a National Emphasis Program (NEP) focusing enforcement efforts on companies that put the largest numbers of employees at serious risk of contracting the coronavirus. The program also prioritizes employers that retaliate against workers for complaints about unsafe or unhealthy conditions, or for exercising other rights protected by federal law.

NEP inspections will enhance the agency's previous coronavirus enforcement efforts, and will include some follow-up inspections of worksites inspected in 2020. The program's focused strategy ensures abatement and includes monitoring the effectiveness of OSHA's enforcement and guidance efforts. The program will remain in effect for up to one year from its issuance date, though OSHA has the flexibility to amend or cancel the program as the pandemic subsides.

For programmed inspections, the NEP will target high risk industries for COVID-19. The primary targets for COVID-19 inspections remain in the healthcare and personal care industries, including physicians' and dental offices, home healthcare, ambulance services, hospitals, including psychiatric and substance abuse hospitals, nursing care facilities, residential intellectual and developmental disability facilities, and retirement and assisted living communities.

For un-programmed inspections, which include inspections initiated based on complaints, referrals from media reports, reports from other agencies like local health departments or the Centers for Medicare & Medicaid Services, and severe incident reports such as in-patient hospitalizations and fatalities, OSHA will be prioritizing these cases for on-site inspections, especially allegations of potential worker exposures to COVID-19. This is in stark contrast to how OSHA handled the thousands of complaints received in the last year, most of which it treated through an informal process of allowing employers to self-investigate allegations related to COVID-19 and report back to OSHA their findings and detail the measures they had in place to protect employees. Most inquiries of this nature resulted in closure of the cases without a formal inspection from OSHA. Fatalities cases also will be prioritized.

New to OSHA's target list for this NEP are certain non-healthcare industries such as meat processing, poultry processing, supermarkets and other grocery stores, discount department stores, general warehousing and storage, temporary agencies, restaurants, and prisons and correctional facilities. OSHA also has identified a secondary list of non-healthcare essential critical infrastructure industries such as food and agriculture and manufacturing of food, beverage, wood, paper products, chemicals, energy sector manufacturing, plastic and rubber, mineral products, and metal manufacturing.

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