

OSHA's COVID-19 National Emphasis Program Will Increase Targeted Inspections Beginning March 26

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On March 12, 2021, the Occupational Safety and Health Administration (OSHA) issued its new COVID-19 National Emphasis Program (NEP). The NEP and related updates to OSHA's interim enforcement response plan for COVID-19 are in response to President Biden's executive order on protecting worker health and safety issued on January 21. The goal of the NEP is to significantly reduce or eliminate worker exposure to COVID-19 by targeting industries and worksites where employees may have a high frequency of close contact exposures. OSHA intends to accomplish the goal through a combination of inspection targeting, employer outreach, and compliance assistance.

The main component of the NEP is to increase programmed inspections of high-hazard industries where COVID-19 exposure is expected to be prevalent. Programmed inspections are those scheduled based on objective or neutral selection criteria. The NEP lists numerous "primary" targets, divided up as either health care or non-health care employers.

Primary health care employers include:

- Physicians' and dentists' offices
- Home health care services
- Ambulance services
- Hospitals
- Nursing care, assisted living, and continuing care retirement facilities

Primary non-health care employers include:

- Meat and poultry processing facilities
- Construction of buildings
- Grocery stores
- Discount department stores
- Warehousing and storage facilities
- Temporary help services (if those services occur at health care facilities or other high-risk facilities)
- Restaurants

In addition to programmed inspections, OSHA will continue to perform unprogrammed inspections using a phased approach. Unprogrammed inspections are those scheduled in response to alleged hazardous working conditions identified at a specific worksite. OSHA will give the highest priority to fatalities, followed by complaints and referrals based on allegations of worker exposure to COVID-19-related hazards. Inspections will either be on-site or use a combination of on-site and remote methods. The NEP also establishes procedures for follow-up inspections of facilities that have already been inspected because of a COVID-19 hazard. The NEP is effective for 12 months from March 12, 2021, but OSHA can cancel it at an earlier date or extend it.

Takeaway

Employers, particularly those in the primary target industries or that OSHA cited previously for COVID-19-related violations, now face a greater likelihood of upcoming inspections. As a result, employers should carefully review their current safety measures; compare those to measures recommended by federal, state, and local authorities; and ensure they have implemented all applicable infection prevention safety measures in accordance with current OSHA guidance and are prepared for a potential inspection. In addition, employers should keep an eye out for additional guidance from OSHA. It appears likely that OSHA will soon release an emergency temporary standard related to COVID-19 pursuant to President Biden's January 21 executive order, and this will likely define employers' obligations concerning COVID-19-related safety measures.

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