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A Contractor's Guide for Maintaining OSHA Compliance in the Wake of COVID-19

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The U.S. Occupational Safety and Health Administration ("OSHA") requires construction employers to provide a safe workplace for employees. On construction jobsites, employers are responsible for keeping employees safe from serious recognized hazards, including the transmission of COVID-19. In order to comply with standards, rules, and regulations issued under the Occupational Safety and Health Act (29 USC 654 *et seq.*), employers should update operating procedures to implement compliant health and safety standards at construction sites. The purpose of this article is to suggest certain policies and procedures to include in such an addendum.

The following policies and rules can be utilized at construction sites to limit COVID-19 exposure, and should be effectively communicated to employees. These can and should be incorporated into an OSHA-compliant health and safety addendum. Also included with this article is a sample jobsite safety "talk" because it is imperative for employees to understand how to protect themselves and others from contracting COVID-19. It is possible that your state has additional specific construction-related rules and regulations, so it is also important to also consult your local "shelter-in-place" or "stay home" order for more information. Given the fast-developing nature of the COVID-19 pandemic, employers should monitor the situation and continue to modify their health and safety standards as necessary.[1]

General Jobsite Safety Policies

- Anyone who is symptomatic of COVID-19 will immediately be asked to leave the jobsite.
- All in-person meetings shall instead be conducted by telephone where possible. If meetings must be conducted in person, no more than 10 attendees should gather at a time, and must remain at least six (6) feet apart. A sign-in sheet should not be passed around for attendance purposes.

- A daily screening protocol should be established for arriving workers so that potentially infected workers do not enter the jobsite.
- Employees must avoid physical contact with each other and must increase personal space to at least six (6) feet where possible. If work assignments require less space for distancing, strategies should be implemented to maximize space between people.
- In the event work trailers are utilized on a jobsite, only necessary employees should enter it and social distancing must be maintained inside.
- Keep work areas as well-ventilated as possible.
- Lunch and other breaks should be staggered.
- Where access to running water for frequent hand-washing is impracticable, alcohol-based hand sanitizer will be provided.
- Tools and equipment should not be shared unless necessary. To the extent they must be shared, alcohol-based wipes must be provided to clean such tools before and after use.
- Employees should minimize ride-sharing.
- Employees should use individual water bottles instead of using a common source of drinking water, such as a cooler.
- Employees should sanitize work areas upon arrival, throughout the workday, and prior to departure.
- If site deliveries are permitted, they must be done with minimal contact and deliveries must be immediately sanitized. Delivery persons should remain in vehicles where possible.
- Identify and control high-risk areas where workers are forced to stand together, such as hallways, elevators or break areas, to maintain social distancing.
- Trades should be staggered and/or work schedules modified where possible to reduce density and maintain a minimum six (6)-foot separation among workers.
- Trash collected in receptacles on the jobsite should be removed frequently.

Personal Protective Equipment (“PPE”) Policies

Note: These measures should be taken in addition to already-established PPE regulations for general safety and for various tasks.

- Gloves should be worn at all times while on-site, appropriate to the task at hand. If gloves are not typically required for a task, then any type, including latex gloves, are acceptable.
- Gloves should not be shared.
- Employees should wear eye protection at all times while on-site.
- Employees should wear masks at all times while on-site. If a certain type of mask is not already required for the task at hand, a cloth mask will suffice.
- Employees who perform cleaning tasks will be issued proper PPE to do so.

Confidentiality and Privacy Policies

Except where legally required to report workplace occurrences of communicable disease, confidentiality of medical conditions will be kept according to applicable law. Where legally required to report that an employee has been diagnosed with COVID-19, the employee's identity will remain anonymous. The employer reserves the right to give other employees the same information regarding such a diagnosis so that all employees may take measures to protect their own health. Likewise, the employer also reserves the right to inform others who work at the same jobsite that an unnamed employee has been diagnosed with COVID-19 so that those individuals may also take personal protective measures.

OSHA's COVID-19 Recordkeeping Requirements

OSHA generally requires employers to record and report occupational injuries and illnesses. However, on April 10, 2020, OSHA issued guidance for recording cases of COVID-19. In areas where there is ongoing community transmission, employers other than in the healthcare industry, emergency response organizations, and correctional institutions may have difficulty making determinations about whether employees who have contracted COVID-19 did so because of exposure to it at work. Accordingly, OSHA will not require these employers to make work-relatedness determinations for COVID-19 cases, except where: 1) there is objective evidence that a COVID-19 may be work related; and 2) the evidence was reasonably available to the employer.

For more information, including sample English and Spanish jobsite safety talks on this topic, please contact Nicole Lentini or Becky Juhl at Gordon Rees Scully Mansukhani, LLP.

Visit our [COVID-19 Hub](#) for ongoing updates.

[1] Information for this article was gathered from recommendations by the Centers for Disease Control and Prevention ("CDC") and/or various OSHA guidelines. For the most up-to-date developments and more specific information on the COVID-19 pandemic, please visit <https://www.cdc.gov/coronavirus/2019-ncov/index.html> and <https://www.osha.gov/SLTC/covid-19/>.

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