

STEVE SISOLAK
Governor

STATE OF NEVADA

VICTORIA CARREÓN
Administrator

TERRY REYNOLDS
Director



PERRY FAIGIN
Interim Deputy Administrator

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

November 2, 2020

Subject: Updated Nevada OSHA Enforcement Process during COVID-19 Pandemic

To Whom It May Concern:

Under Governor Sisolak's State of Emergency during the COVID-19 Pandemic and associated directives, the Nevada Occupational Safety and Health Administration (OSHA) has been given enforcement authority. OSHA has released guidance documents for businesses as the Governor's directives have evolved. The latest guidance is dated July 29, 2020 and is posted at <http://dir.nv.gov/OSHA/Home/>.

What changes are being made to the OSHA enforcement process in counties with elevated disease transmission?

This document is an update to the July 23, 2020 letter detailing Nevada OSHA's enforcement process during the COVID-19 Pandemic. That document detailed a three-step enforcement process that included an observation, follow-up visit, and post citation visit.

In light of increasing COVID-19 infection rates in the state, Nevada OSHA will be changing its enforcement practices in counties that have met at least two of the following three criteria that have been identified by the COVID-19 Mitigation and Management Task Force for elevated disease transmission:

1. Average number of tests per day (per 100,000) < 100
2. Cases (per 100,000) > 200
3. Cases (per 100,000) > 50 AND testing positivity > 8.0%

In these counties, Nevada OSHA may make unannounced visits to businesses to observe compliance with posting of signs, face coverings, social distancing, sanitation, and other requirements in the Governor's directives. If violations are noted, OSHA will open an investigation with the employer, which may lead to a citation.

If a citation is issued, a notice will be provided with the citation indicating that in the event of future noncompliance, the Administrator may issue an order requiring the business to cease all activity at that location during this state of emergency under NRS 618.545(1) until the business has established and implemented operating procedures to comply with the requirements.

If a business was cited, it will receive another visit from Nevada OSHA to determine if the violations have been corrected. If not, the Administrator may issue an order requiring the business to cease all activity

CARSON CITY
400 West King Street
Suite 400
Carson City, NV 89703
(775) 684-7270

LAS VEGAS
3360 West Sahara Avenue
Suite 250
Las Vegas, NV 89102
(702) 486-9080

at that location during this state of emergency under NRS 618.545(1) until the business has established and implemented operating procedures to comply with the requirements.

What will the process be in counties that do not have elevated disease transmission?

The enforcement process outlined in the July 23, 2020 letter will continue, which includes an observation, follow-up visit, and post citation visit as outlined below:

Step 1: Observation

Division of Industrial Relations (DIR) employees may make unannounced visits to businesses to observe compliance with posting of signs, face coverings, social distancing, sanitation, and other requirements in the Governor’s directives. If violations are noted with general or industry-specific guidance, the DIR employee will provide the business with a notice reminding the business that it is responsible for complying with the requirements regarding social distancing and face coverings and other Governor directives related to COVID-19. The notice also indicates that failure to comply in the future could result in the establishment being cited by Nevada OSHA. An opening conference is not conducted during the initial observation because these observations are not considered part of the customary OSHA inspection process.

The data from these visits is provided to the DIR Administrator. This information is used to focus future enforcement action for specific business sectors which have a greater incidence of noncompliance with the social distancing and face covering requirements. The only information shared by the Administrator’s office with OSHA is whether a specific workplace was noncompliant with any of the requirements for notice or signage, social distancing or face coverings. The specific results of any observation of a place of business by a Division employee who is not an OSHA employee are not shared with OSHA administration or staff.

Step 2: Follow-up Visit

Nevada OSHA conducts follow up visits of business that were observed to be noncompliant in Step 1 to determine if there is continuing noncompliance. If the inspector finds continuing noncompliance, an investigation can be opened that may lead to a citation. An opening conference would be conducted at that time.

If a citation is issued, a notice is provided with the citation indicating that in the event of future noncompliance, the Administrator may issue an order requiring the business to cease all activity at that location during this state of emergency under NRS 618.545(1) until the business has established and implemented operating procedures to comply with the requirements.

Step 3: Post-Citation Visit

If a business was cited, they will receive another visit from Nevada OSHA to determine if the violations have been corrected. If not, the Administrator may issue an order requiring the business to cease all activity at that location during this state of emergency under NRS 618.545(1) until the business has established and implemented operating procedures to comply with the requirements.

What is the process for follow-up on complaints made to Nevada OSHA?

OSHA is continuing to follow its regular process for complaints made by employees and referrals from the public. An inquiry is conducted into each complaint or referral. OSHA will send a letter to the business indicating the nature of the complaint. The business will be provided with an opportunity to respond to OSHA regarding the complaint. If Nevada OSHA deems the response to be insufficient, it can open an investigation. If Nevada OSHA receives numerous complaints against a single business, it can choose to open an investigation. Investigations can lead to citations. OSHA may also send certain complaints and referrals to business licensing agencies in local jurisdictions for follow up in lieu of going through the inquiry process.

Will OSHA enforcement strategies change in the future?

As the COVID-19 pandemic continues to evolve, there could be changes to OSHA’s enforcement practices. You can monitor updates as they occur on OSHA’s website at <http://dir.nv.gov/OSHA/Home/>

If you have questions, you may contact Nevada OSHA at (702) 486-9020 or (775) 688-3700.

Sincerely,



Victoria Carreón
Administrator