

Nevada Occupational Safety and Health Administration

# National Emphasis Program – Coronavirus Disease 2019 (COVID-19)

Nevada State Plan Version, April 1, 2021

## ABSTRACT

- Purpose:** This Direction describes policies and procedures for implementing Nevada OSHA’s adoption of the OSHA National Emphasis Program (NEP) to ensure that employees in high- hazard industries or work tasks are protected from the hazard of contracting SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of Coronavirus Disease 2019 (COVID-19). The NEP augments Nevada OSHA’s efforts addressing unprogrammed COVID-19-related activities, *e.g.*, complaints, referrals, and severe incident reports, by adding a component to target 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, distributing anti-retaliation information during inspections, and outreach opportunities, as well as promptly referring allegations of retaliation to the Whistleblower Protection Program.
- Scope:** This Direction applies statewide.
- References:** [Presidential Executive Order on Protecting Worker Health and Safety](#), January 21, 2021.  
Section 5(a)(1) of the Occupational Safety and Health Act (OSH Act), [29 U.S.C. § 654](#).  
Nevada Revised Statutes [section 618.375\(1\)](#)  
Nevada Revised Statutes [section 618.445](#)  
OSHA Instruction, [CPL 02-00-164](#), *Field Operations Manual (FOM)*, April 14, 2020.  
Nevada OSHA Operations Manual (NOM), 2020 revision.  
OSHA Instruction, [CPL 02-03-007](#), *Whistleblower Investigations Manual*, January 28, 2016.  
Nevada OSHA Whistleblower Investigations Manual  
OSHA Guidance, [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#), January 29, 2021.  
(See [Section III](#) for additional references.)
- Cancellations:** None.

**State Plan Impact:** Federal Program Change, Notice of Intent Required, Adoption Encouraged. See [Section VI](#).

**Action Offices:** Nevada OSHA district offices Las Vegas and Reno

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By and Under the Authority of

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## **Executive Summary**

On January 21, 2021, by executive order, President Biden directed the Secretary of Labor, acting through the Assistant Secretary of Labor for Occupational Safety and Health, to launch a national program to focus OSHA enforcement efforts related to Coronavirus Disease 2019 (COVID-19) on hazardous conditions that put the largest number of workers at serious risk, and on employers that engage in retaliation against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Act. Nevada OSHA determined that state level adoption of the federal program was appropriate, with the inclusion of specific changes relevant to the enforcement authorities and response conditions in the state of Nevada.

This Direction describes policies and procedures for Nevada’s OSHA state plan to implement provisions at least as effective as the National Emphasis Program (NEP) to ensure that employees in high-hazard industries are protected from the hazard of contracting SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of COVID-19. This emphasis program augments Nevada OSHA’s efforts addressing unprogrammed, COVID-19-related activities, *e.g.*, complaints, referrals, and severe incident reports, by adding a component targeting specific high-hazard industries or activities where this hazard is prevalent. The emphasis program targets establishments that have workers with increased potential exposure to this hazard. In addition, this program includes an added focus to ensure that workers are protected from retaliation and are accomplishing this by preventing retaliation where possible, distributing anti-retaliation information during inspections, and outreach opportunities, as well as promptly referring allegations of retaliation to the Whistleblower Protection Program.

## **Significant Changes**

Not applicable. This is a new enforcement program.

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Appendix A: [Primary Target Industries for the COVID-19 NEP](#)

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Appendix C: [CSHO Pre-inspection Checklist](#)

Appendix D: [General Safety & Health Inspection Precautions for Compliance Staff](#)

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Appendix F: [Additional References](#)

I. Purpose.

This Direction describes policies and procedures for implementing a National Emphasis Program (NEP) to ensure that employees in high-hazard industries are protected from the hazard of contracting SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of Coronavirus Disease 2019 (COVID-19). The NEP augments OSHA's efforts addressing unprogrammed, COVID-19-related activities, *e.g.*, complaints, referrals, and severe incident reports, by adding a component 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, distributing anti-retaliation information during inspections and outreach opportunities, as well as promptly referring allegations of retaliation to the Whistleblower Protection Program.

II. Scope.

This Direction applies OSHA-wide.

III. References.

- A. Presidential Executive Order on Protecting Worker Health and Safety, January 21, 2021. [www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-protecting-worker-health-and-safety](http://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-protecting-worker-health-and-safety).
- B. Section 5(a)(1) of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. § 654. [www.osha.gov/laws-regs/oshact/section5-duties](http://www.osha.gov/laws-regs/oshact/section5-duties).
- C. OSHA Instruction, ADM 03-00-003, *OSHA Directives System*, December 11, 2000. [www.osha.gov/enforcement/directives/adm-03-00-003](http://www.osha.gov/enforcement/directives/adm-03-00-003).
- D. OSHA Instruction ADM 03-01-005, *OSHA Compliance Records*, August 3, 1998. [www.osha.gov/enforcement/directives/adm-03-01-005](http://www.osha.gov/enforcement/directives/adm-03-01-005).
- E. OSHA Instruction, ADM 04-00-003, *OSHA Safety and Health Management System*, May 6, 2020. [www.osha.gov/enforcement/directives/adm-04-00-003](http://www.osha.gov/enforcement/directives/adm-04-00-003).
- F. OSHA Instruction, CPL 01-00-158, *Inspection Procedures for the Respiratory Protection Standard*, June 26, 2014. [www.osha.gov/enforcement/directives/cpl-02-00-158](http://www.osha.gov/enforcement/directives/cpl-02-00-158).
- G. OSHA Instruction, CPL 02-00-025, *Scheduling System for Programmed Inspections*, January 4, 1995. [www.osha.gov/enforcement/directives/cpl-02-00-025](http://www.osha.gov/enforcement/directives/cpl-02-00-025).
- H. OSHA Instruction, CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, May 28, 1998 (including annually updated Appendix A). [www.osha.gov/enforcement/directives/cpl-02-00-051](http://www.osha.gov/enforcement/directives/cpl-02-00-051).
- I. OSHA Instruction, CPL02-00-155, *Inspection Scheduling for Construction*, September 6, 2013. [www.osha.gov/enforcement/directives/cpl-02-00-155](http://www.osha.gov/enforcement/directives/cpl-02-00-155).

- J. OSHA Instruction, CPL 02-00-164, *Field Operations Manual (FOM)*, April 14, 2020. [www.osha.gov/enforcement/directives/cpl-02-00164](http://www.osha.gov/enforcement/directives/cpl-02-00164).
- K. OSHA Instruction, CPL 02-01-062, *Site-Specific Targeting (SST)*, December 14, 2020. [www.osha.gov/enforcement/directives/cpl-02-01-062](http://www.osha.gov/enforcement/directives/cpl-02-01-062).
- L. OSHA Instruction, CPL 02-02-054, *Respiratory Protection Program Guidelines*, July 14, 2000. [www.osha.gov/enforcement/directives/cpl-02-02-054](http://www.osha.gov/enforcement/directives/cpl-02-02-054).
- M. OSHA Instruction, CPL 02-02-072, *Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records*, August 22, 2007. [www.osha.gov/enforcement/directives/cpl-02-02-072](http://www.osha.gov/enforcement/directives/cpl-02-02-072).
- N. OSHA Instruction, CPL 02-03-007, *Whistleblower Investigations Manual*, January 28, 2016. [www.osha.gov/enforcement/directives/cpl-02-03-007](http://www.osha.gov/enforcement/directives/cpl-02-03-007).
- O. OSHA Memorandum, *Establishment-Targeting Lists for Emphasis Programs*, November 12, 2014. [www.osha.gov/dep/enforcement/establishment\\_targeting\\_lists\\_11122014](http://www.osha.gov/dep/enforcement/establishment_targeting_lists_11122014).
- P. OSHA Memorandum, *Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19)*, March 12, 2021. [www.osha.gov/memos/2021-03-12/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19](http://www.osha.gov/memos/2021-03-12/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19).
- Q. OSHA Guidance, *Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace*, January 29, 2021. [www.osha.gov/coronavirus/safework](http://www.osha.gov/coronavirus/safework).
- R. OSHA Safety and Health Topics: Coronavirus Disease (COVID-19) (webpage). [www.osha.gov/coronavirus](http://www.osha.gov/coronavirus).
- S. Centers for Disease Control and Prevention (CDC): COVID-19 (webpage). [www.cdc.gov/coronavirus/2019-ncov](http://www.cdc.gov/coronavirus/2019-ncov).

See [Appendix F](#) for Additional References.

IV. Cancellations.

None.

V. Action Offices.

A. Responsible Office.

Directorate of Enforcement Programs, Office of Health Enforcement

B. Action Offices.

OSHA Regional and Area Offices, State Plan and State Consultation Offices

C. Information Offices.

OSHA National Office.

VI. Federal Program Change.

This Direction describes a federal program change that establishes an NEP to identify and reduce or eliminate exposures to SARS-CoV-2 (the virus), the cause of COVID-19, through inspection targeting, outreach, and compliance assistance. Based on the individual variability of COVID-19 protective requirements currently in place across all State Plans, OSHA strongly encourages State Plans to adopt this NEP, but does not require identical adoption. State Plan notice of intent regarding this Direction is required.

Within 60 days of the effective date of this Direction, a State Plan must submit a notice of intent indicating whether they already have a substantially similar policy in place, intend to adopt new policies and procedures, or do not intend to adopt this Direction. If a State Plan does not adopt at first, but at some later point decides to adopt this Direction or an at least as effective version of this Direction, the State Plan must notify OSHA of this change in intent. Within 60 days of adoption, the State Plan must provide an electronic copy of the policy or link to where their policy is posted on the State Plan's website. The State Plan must also provide the date of adoption and identify differences, if any, between their policy and OSHA's. OSHA will provide summary information on the State Plan responses to this Direction on its website at: [www.osha.gov/stateplans/adoption](http://www.osha.gov/stateplans/adoption).

Nevada OSHA indicated its intent to adopt this NEP with state specific changes on April 1, 2021. The Nevada specific changes to the NEP relate to state specific hazard evaluation and control methods used by state enforcement personnel while conducting inspections under the scope of the NEP.

OSHA's Office of Statistical Analysis (OSA) will work with the State Plans to provide the data as requested to develop targeting lists in accordance with the instructions in [Section XII.B](#). OSHA will make the list(s) of establishments available to the State Plans. See coding instructions for the OSHA Information System (OIS) in [Section XII.F](#).

This Direction describes a change that may affect federal agencies. Federal agencies that are subject to inspection and have employees exposed to hazards covered by this emphasis program are also included in this NEP. See [FOM](#) Chapter 13, *Federal Agency Field Activities*.

VII. Expiration.

This Direction is effective for no more than 12 months from the effective date, unless canceled or extended by a superseding directive.

VIII. Significant Changes.

N/A.

IX. On-Site Consultation Programs.

On-Site Consultation Programs are encouraged to develop their own strategic approaches for addressing the hazards associated with occupational exposure to SARS-CoV-2. See coding instructions for the OIS in [Section XII.F](#).

X. Background.

The World Health Organization declared the COVID-19 pandemic on March 11, 2020.



As the pandemic grew throughout the U.S., it impacted workplaces in virtually every industry and required employers, particularly those having workers in high-hazard industries (e.g., healthcare and emergency response) to adopt certain practices to mitigate the hazard. Workers' occupational exposure to SARS-CoV-2 during the pandemic may vary from community to community, depending on local conditions or outbreaks. Exposures may depend on a variety of factors including the physical environment of the workplace, the type of work activity, the health status of the worker, the ability of workers to wear face coverings and abide by current CDC guidelines, and the need for [close contact](#) (within 6 feet for a total of 15 minutes or more over a 24-hour period) with other people, including those known to have or suspected of having COVID-19, and those who may be infected with—and able to spread—SARS-CoV-2 without knowing it. Other factors, such as conditions in communities where employees live and work, their activities outside of work, and individual health conditions, may also affect workers' risk of getting COVID-19 and/or developing complications from the illness. OSHA and several public health agencies have developed recommendations to assist employers in preparing their workplaces to minimize transmission of the virus.

On April 12, 2020, OSHA issued an [Interim Enforcement Response Plan](#) for COVID-19 as a first step at establishing an emphasis on very high- and high-risk workplaces. On May 26, 2020, OSHA's [Updated Interim Enforcement Response Plan](#) for COVID-19 went into effect. On March 12, 2021, a further update to the [Updated Interim Enforcement Response Plan](#) was issued and shall remain in effect unless otherwise superseded by another OSHA directive or updated pursuant to an emergency temporary standard per the [Presidential Executive Order on Protecting Worker Health and Safety](#), January 21, 2021. OSHA's interim enforcement response plan memorandum provides instructions and guidance to Area Offices and compliance safety and health officers (CSHOs) for handling COVID-19-related unprogrammed activities (UPA), e.g., complaints, referrals, and severe incident reports.

This new NEP enhances OSHA's emphasis on COVID-19-related hazards by formalizing components for planned/programmed and follow-up inspections in workplaces where employees have a high frequency of [close contact](#) exposures and where this hazard is prevalent. This NEP also reaffirms OSHA's adherence to longstanding inspection policy that relies predominantly on on-site (in person) presence for most inspections. Modifications to that posture (i.e., performance of remote-only COVID-19 inspections) are reserved for limited circumstances and subject to District Manager's (DM) approval, as described in [Section XII.C.1](#), below.

XI. [National Emphasis Program \(NEP\) Goal](#).

The goal of this NEP is to 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.

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), focusing Agency resources on

workplace exposures to SARS-CoV-2 in certain critical industries until further notice. Unprogrammed COVID-19-related inspections will continue to be conducted at worksites where employees have a high frequency of [close contact](#) exposures. OSHA anticipates that the majority of the inspections will continue to occur in general industry, particularly in healthcare, based on current OSHA enforcement data showing higher COVID-19-related complaints, referrals and severe incident reports at healthcare worksites.

To ensure abatement and to monitor the effectiveness of OSHA's enforcement and guidance efforts, certain follow-up inspections from worksites previously inspected for COVID-19-related hazards will be included as part of the targeting strategy, as outlined in, [Section XII.C.2](#), below.

## XII. Program Procedures.

### A. General.

Area Offices or Regional Offices are not required to develop a Local Emphasis Program (LEP) or Regional Emphasis Program (REP) for SARS-CoV-2.

Appendix A of this Direction provides lists of affected industries by their North American Industry Classification System (2017 NAICS) codes. The lists in Appendix A include industries where workers are currently at increased potential exposure to SARS-CoV-2. See [Appendix A](#) for more detailed information about the sources OSHA used to identify affected industries.

Establishments with fewer than 10 workers shall be included in this NEP. See [CPL 02-00-051](#), *Enforcement Exemptions and Limitations under the Appropriations Act*.

### B. Site Selection.

#### 1. Master List Generation.

For programmed inspections, the NEP will generate two Master Lists for site selection. Master List 1 will be comprised of all establishments identified as having a NAICS code listed in [Appendices A](#) and [B](#). Master List 2 will be comprised of establishments having a NAICS code listed in [Appendices A](#) and [B](#) and having an elevated illness rate as indicated by Form 300A data. Area Offices will use either list or a combination of the two lists to meet their inspection goals. The Office of Statistical Analysis (OSA) will use CY 2020 Form 300A data to identify establishments with elevated rates of illness. OSA will post randomized lists on the Area Offices ListGen page for download.

- a. Master List 1. Each Area Office will use the Establishment Targeting List-Generation System (ListGen) for generating a master list of establishments from [Appendices A](#) and [B](#), relying predominantly on NAICS in [Appendix A](#). NAICS codes in [Appendix A](#) were derived from a review of OSHA's enforcement activities in 2020. Refer to the OSHA Memorandum,

[Establishment-Targeting Lists for Emphasis Programs](#), November 12, 2014.

- b. Master List 2. The OSA will use CY 2020 Form 300A data to identify establishments with elevated rates of illness. OSA will post randomized lists on the Area Offices' ListGen page for download.

See [Appendices A](#) and [B](#) for additional information about how the various lists of NAICS codes are organized.

2. Additions.

Area Offices may add establishments to the generated master lists (whether or not the NAICS of that establishment is listed in the appendices) based on information from appropriate sources (*e.g.*, local knowledge of establishments, commercial directories, referrals from the local health department, or from other federal agencies with joint jurisdictions, such as the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Agriculture (USDA), media referrals or previous OSHA inspection history).

3. Deletions.

Area Offices may delete from their target list any establishment that has had a comprehensive or partial health inspection that addressed COVID-19 hazards with an Opening Conference date occurring within the twelve (12) previous months and resulted in one of the following outcomes:

- a. Serious citations related to COVID-19 hazards which are under contest or for which the abatement period has not yet expired; or
- b. No serious citations were issued for hazards related to exposure to SARS-CoV-2; or
- c. Serious citation(s) were issued for hazards related to exposure to SARS-CoV-2 but a follow-up inspection documented appropriate and effective efforts by the employer to abate the serious hazards cited (*e.g.*, work practice or administrative controls in place, engineering controls installed).

**NOTE:** District Managers may use discretion in scheduling an inspection at a previously cited establishment, inspected within the previous twelve (12) months, even though other-than-serious citations, Hazard Alert Letters or Notification Letters were issued related to exposure to SARS-CoV-2 as a result of the previous inspection.

District Offices shall maintain documentation supporting any deletions made under this paragraph (*see* [Section XII.B.5](#)).

4. Cycle Generation.

ListGen assigns random numbers and provides the Master List in Random Number order. Acceptable methods for generating cycles can be found in the memorandum dated November 12, 2014, [Establishment-Targeting Lists for Emphasis Programs](#). Subsequent cycles will be created in the same manner until such time that this 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.

**NOTE:** Area Offices may also add establishments to the ListGen Master List, based on sources that may include, but are not limited to: (a) commercial directories; (b) telephone listings; (c) local knowledge establishments, derived from previous OSHA inspection history; and (d) information from other government agencies, such as the local Health Department. The Area Office must retain documentation of every addition made to the Master List and, prior to use, the revised List must be re-randomized -- either by OSA or by the Area Office using the RANDBETWEEN function in Microsoft Excel.

5. Maintaining Inspection List/Cycles and Documentation.

The District Manager is responsible for maintaining documentation necessary to demonstrate that the District Office has used the NEP inspection list and cycles in accordance with this Direction, including documenting all deletions, deferrals, or other modifications. The Area Office shall maintain all such inspection lists, cycles, and documentation for a period of three years after all inspections conducted under this NEP plan are closed. See [CPL 02-00-025](#), *Scheduling System for Programmed Inspections*; [CPL 02-00-155](#), *Inspection Scheduling for Construction*; and [ADM 03-01-005](#), *OSHA Compliance Records*.

C. Inspection Scheduling.

Within a specified cycle, inspections may be scheduled utilizing a phased approach. The highest priority should be given to fatality inspections related to COVID-19 and then to other unprogrammed inspections alleging employee exposure to COVID-19 related hazards. Area Offices may schedule 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 this NEP to reduce worker exposures to SARS-CoV-2, programmed inspections may take priority over follow-up inspections.

Where programmed inspections are being conducted, an inspection cycle shall be completed before another cycle is started, except that establishments may be carried over in accordance with established procedures.

Some establishments selected for inspection under this NEP may also be selected under other NEPs and/or LEPs, or under the current [Site Specific Targeting \(SST\) Plan](#) and the Inspection Scheduling for Construction [CPL 02-00-155](#), dated 9/6/2013. Whenever possible, inspections under this NEP should be carried out concurrently with other programmed inspections.

1. Unprogrammed Inspections.

Fatality/Catastrophe, Complaints or Referrals for any general industry, maritime, or construction operation alleging potential exposures to SARS-CoV-2, whether or not they fall within a targeted industry of this NEP, shall be handled in accordance with the hierarchy of conducting inspections as outlined in [FOM](#) Chapter 9, *Complaint and Referral Processing*, and Chapter 11, *Imminent Danger, Fatality, Catastrophe, and Emergency Response*, and in accordance with the specific procedures listed below:

a. Fatality/Catastrophe

Continue to prioritize COVID-19 fatality events for inspection. Particular attention for on-site inspections will be given to workplaces with a higher potential for COVID-19 exposures, such as hospitals, assisted living, nursing homes and other healthcare and emergency response providers treating patients with COVID-19, as well as workplaces with high numbers of COVID-19-related complaints or known COVID-19 cases. These include, but may not be limited to, correctional facilities, and workplaces in critical industries located in communities with increasing rates of COVID-19 transmission, and where workers are in close proximity (<6 feet) to the public or coworkers, such as meatpacking plants, poultry processing facilities, and grocery stores.

b. Complaints and Referrals

Allegations of potential worker exposures to SARS-CoV-2 (*e.g.*, insufficient controls in place such as PPE, face coverings, engineering controls), or involving workers suspected or confirmed positive for COVID-19, or with symptoms of exposure to the virus (*e.g.*, fever or chills, shortness of breath or difficulty breathing), shall be treated as having priority for conducting an on-site inspection and the DM will exercise discretion in determining the order in which each establishment is assigned for inspection.

During all unprogrammed inspections, CSHOs must note the location of the workplace and the name and address of the employer(s) involved. Document the status and condition of the work operation, noting any potentially serious hazard(s). Where possible, this should include information (such as the task or conditions of exposure) establishing any evidence of the likelihood of exposure to SARS-CoV-2. Documentation

of all relevant facts (*i.e.*, timeline) leading up to the observation shall be maintained in the file.

Unprogrammed inspections shall be inspected using either on site or a combination of on-site and remote methods, except under circumstances where an on-site inspection cannot be conducted safely. In such cases, District Offices will document the unsafe condition(s) preventing an on-site inspection and with DM approval, an alternate inspection process may be used so that the inspection can be done safely within the context of the situation. Remote-only inspections may be conducted with DM's approval to assure that SARS-CoV-2 hazards alleged in complaints, referrals, fatality reports, etc., are expeditiously investigated and abatement can be implemented as soon as possible.

2. Follow-up Inspections.

Initial follow-up inspections should be conducted for establishments that were previously inspected as a result of a COVID-19-related fatality and cited. Additional follow-up inspections should be conducted for any establishment receiving deferred\* violations (OIS Code: N-10-ABATEMENT DEFERRED), then for establishments receiving serious violations related to COVID-19 hazards or in some cases, other-than-serious citations as explained in [Section XII. B.3](#).

**\*NOTE:** For more information on OSHA's temporary enforcement policy on deferred abatement, see OSHA Memorandum, [Discretion in Enforcement when Considering an Employer's Good Faith Efforts During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#) (April 16, 2020).

District Managers may also use discretion in selecting establishments for follow-up inspections where any of the following applies:

- 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, and respiratory protection noted in the abatement certification, within the time period specified; or
- c. If there are any violations for which abatement has not been provided.

Follow-up inspections should be conducted to determine if the previously identified COVID-19 hazards have been corrected or to verify the accuracy of abatement information provided. Follow-up inspections are to be conducted in accordance with [FOM](#), Chapter 3, Section VII.K. *Follow-up and Monitoring Inspections*, based on available resources and using either on-site or a combination of on-site and remote methods.

For situations where follow-ups cannot be performed (*e.g.*, where CSHOs are unable to conduct an on-site inspection without exposure to suspected or confirmed COVID-19 employees and/or residents), the District Manager, when possible, may require that the employer provide written updates documenting the progress of abatement efforts, per 29 CFR § 1903.19.

The Area Office does not need to send abatement verification to the Directorate of Enforcement Programs (DEP) in the National Office, but such documentation shall be available to DEP on request.

If resources allow, follow-up inspections/investigations may also be initiated to verify abatement of hazards identified in Hazard Alert Letters for COVID-19-related hazards.

3. Programmed Inspections.

a. High-hazard Industries.

Area Offices should continue prioritizing COVID-19 fatalities, complaints, and referrals for inspection. In addition, a list of healthcare and non-healthcare industries with NAICS codes having among the highest numbers of OSHA-recorded fatalities, complaints, referrals, inspections, COVID-19-related violations and Hazard Alert Letters issued since April of 2020 is provided in [Appendix A](#). A secondary list is provided in [Appendix B](#) for additional non-healthcare industries not captured by Table 2 in Appendix A, for workers who maintain critical business operations or would otherwise help to maintain a healthy work environment and are likely to be at increased risk of exposure to COVID-19.

b. Site-Specific Targeting (SST).

If an establishment selected for inspection under this NEP is also selected under the current SST plan, then, whenever possible, NEP and SST plan inspections should be conducted concurrently. Refer to OSHA Instruction, [CPL 02-01-062](#), *Site-Specific Targeting (SST)* (or current version).

c. Sites selected for programmed inspections shall be inspected using either on-site or a combination of on-site and remote methods. Refer to [Appendix D](#) for additional guidance related to CSHO safety.

d. If an establishment selected for inspection under this NEP is also selected under the current Inspection Scheduling for Construction, then, whenever possible, the NEP inspection and the planned inspections should be conducted concurrently. Refer to Inspection Scheduling for Construction [CPL 02-00-155](#), dated 9/6/2013.

4. Whistleblower Protections.

[Presidential Executive Order on Protecting Worker Health and Safety](#), January 21, 2021, directs OSHA to focus its enforcement efforts related to Coronavirus Disease 2019 (COVID-19) on violations that put the largest number of workers at increased potential exposures to COVID-19, and on employers that engage in retaliation against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Act. As such, this NEP will include added focus of ensuring that workers are protected from retaliation through information sharing and prompt referrals.

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. Inform the workers of their protections from retaliation and refer them to [www.whistleblowers.gov](http://www.whistleblowers.gov) for more information, including how to file a retaliation complaint. If the worker is alleging some form of retaliation, the Area Office must submit a referral to the Regional Whistleblower Protection Program.

5. Cooperative Programs.

Employers participating in cooperative programs may be exempt from programmed inspections. After inspection lists are generated, the Area Office should contact the Cooperative and State Programs Unit in their Regional Office to determine if any company on the list should be exempted. The CSHO should follow the procedures outlined in [FOM](#) Chapter 2, Program Planning, for further guidance if an on-site consultation visit is in progress, or if the establishment is a participant in OSHA's Voluntary Protection Programs (VPP) or the Safety and Health Achievement Recognition Program (SHARP) or Pre-SHARP. Even if an employer is exempt from a programmed inspection, the Area Office should notify the employer in writing that they are required to comply with all applicable OSHA standards and the General Duty Clause. In such cases, the Regional Consultation Project Officer shall follow-up with the responsible Consultation Program Manager.

D. Inspection Procedures.

Inspections are normally not initiated under an NEP until the required 90-day outreach is conducted per [Procedures for Local and Regional Emphasis Programs](#), December 3, 2014. However, OSHA has continually conducted outreach at the National, Regional, and Area Office levels throughout the duration of the pandemic outbreak. Thus, the 90-day outreach threshold has been met and Area Offices may begin to initiate inspections under this NEP on the effective date. Targeting should begin at least two weeks after the date of issuance, however unprogrammed activities may continue to be conducted and coded using the



appropriate OIS codes in that two-week interim (see [Section XII.F](#)). The Agency will continue to conduct outreach, per [Section XII.G](#), throughout the NEP's course of implementation while responding to complaints, referrals, hospitalizations, and fatalities related to COVID-19, and shall code such activities in accordance with [Section XII.F](#). All inspections shall be conducted in accordance with the general provisions of the [FOM](#) and, where appropriate, the [Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#), unless otherwise superseded by another OSHA directive. Additionally, to the extent possible, inspections should be conducted in a manner to achieve expeditious issuance of COVID-19-related citations and abatement. Other general procedures related to preparing for inspections include the following:

1. Inspections under this NEP shall only be conducted by CSHOs who have reviewed the appropriate safety and health precautions as outlined in the [FOM](#) Chapter 3, *Inspection Procedures* as well as [Appendix C](#) and [Appendix D](#) of this Direction, and who has complied with Regional SHMS policies and procedures to address foreseeable hazards which may arise during the current inspection. Refer to Attachment 1, Section III, of the Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19) for more information on CSHO protection and training.
2. Once an inspection has been scheduled for an identified establishment, and prior to opening the inspection, CSHOs shall conduct a search of the employer's citation and fatality/ accident history in OSHA's [Establishment Search Page](#) or by using OIS.
3. The CSHO shall also determine whether the identified establishment is scheduled for any other programmed inspection (*e.g.*, SST, NEP, LEP). Whenever possible, inspections under this NEP should be carried out concurrently with other programmed inspections.
4. At the opening conference, the CSHO will verify the correct NAICS code for the establishment with the employer and determine whether work practices that may result in worker exposures to SARS-CoV-2 are conducted at the facility or worksite. The CSHO shall 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.

The CSHO may choose to verify the employer's assertions regarding workplace conditions or possible existence of worker exposures to SARS-CoV-2 by interviewing employee(s) at the site. If it is determined through a review of the injury and illness logs and employer or employee interviews that 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 the inspection was initiated as a

programmed inspection, as outlined in [XII.C.3](#), then the CSHO shall not proceed with the inspection. Such inspections shall be coded “COVID-19” and closed as a “no inspection”. However, if the inspection was initiated by an unprogrammed or follow-up activity or the establishment is targeted under another NEP or LEP, then the CSHO should proceed with the inspection in order to address additional items alleged or those covered by another emphasis program. The CSHO will inform the employer of their rights and responsibilities under NRS 618.445. If the unprogrammed activity that initiated this inspection includes an allegation of retaliation, the CSHO shall refer this allegation to the Whistleblower Investigations Unit.

If the CSHO determines that workers may be performing tasks which include a high frequency of [close contact](#) exposures with increased potential exposure to COVID-19 hazards, then the CSHO shall proceed with the inspection following the procedures in this NEP and DM discretion for conducting remote inspections.

5. All health hazards observed in the course of any inspection conducted under this NEP shall be appropriately addressed and may be referred for a later inspection as resources permit. Other health hazards that may be arise particularly during inspections within healthcare settings including, but are not limited to: exposure to workplace violence; slips, trips and falls; bloodborne pathogens or other potentially infectious materials; ergonomic hazards (musculoskeletal disorders, MSDs); Tuberculosis; and heat stress. *See* OSHA Memorandum, [Inspection Guidance for Inpatient Healthcare Settings](#) (June 25, 2015).

During inspections, where safety violations have also been alleged or when they are observed in plain view during the walkaround, CSHOs must address and cite where appropriate. Safety referrals may be made, subject to any current exemptions or limitations on such activity.

CSHOs should be reminded that several targeted industries for the COVID-19 NEP listed in Appendix A were on the annual appropriations exemption list issued January 2021 for [Appendix A](#) of CPL 02-00-051, such as, NAICS 621111 Offices of Physicians (except Mental Health Specialists), NAICS 621210 Offices of Dentists, NAICS 621610 Home Health Care Services, NAICS 236220 Commercial and Institutional Building Construction, NAICS 561320 Temporary Help Services, NAICS 722511 Full-Service Restaurants, and NAICS 722513 Limited-Service Restaurants. *See* [CPL 02-00-051](#), *Enforcement Exemptions and Limitations under the Appropriations Act*, Section XI.B.4.b, which provides: “Apparent safety violations noted during a health inspection of an establishment [with 10 or fewer employees] exempted from programmed safety inspections shall not be cited or referred for later inspection unless such violations create an imminent danger.”

6. Citation Guidance: CSHOs shall consult references within this Direction, any internal guidance on Enforcement for COVID-2019 available on the DEP intranet page, and current CDC recommendations and guidelines in evaluating whether any OSHA standards or the general duty clause, NRS 618.375(1), have been violated and if a citation is warranted.

Because the use of respirators or other personal protective equipment may not completely protect against the SARS-CoV-2 virus, employers have obligations under the General Duty Clause [NRS 618.375(1)] to take further measures where standards alone may not provide adequate protection. Where all the elements for a General Duty Clause violation can be established, the District Manager, in consultation with the CAO and division legal counsel, shall consider issuing a citation. The most current CDC recommendations/ guidelines at the time of employee exposure relating to COVID-19 should be consulted as one source of evidence of hazard recognition and potential feasible methods of abatement.

In all cases where the District Manager determines that an OSHA standard has been violated or a condition exists warranting issuance of a NRS 618.375(1) violation for an occupational exposure to the SARS-CoV-2 virus, the District Office shall follow current statewide guidance pertaining to citation issuance.

In the event that OSHA issues an emergency temporary standard, those provisions will take precedence over citations of the general duty clause.

7. Establishments with more than one location engaged in the same or similar types of operations, may also have employees who are potentially exposed to COVID-19-related hazards at other locations. Compliance officers should consult with Area and Regional Offices to provide a letter to the corporate entities of such establishments, informing them of the COVID-19-related OSHA inspection. Refer to [Appendix E](#) of this Direction for a sample letter to employers.
8. The CSHO will inform workers of their right to file a whistleblower complaint if they experience retaliation for providing assistance to OSHA during an inspection, filing a safety and health complaint with OSHA, reporting a work-related injury or illness, or complaining about SARS-CoV-2 exposure or any other workplace hazards to management, and must promptly refer any complaint of alleged retaliation to the Regional Whistleblower Protection Program.

E. CSHO Protection.

1. In accordance with the [Presidential Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing](#), January 20, 2021, to protect the Federal workforce and individuals interacting with the Federal workforce, and to ensure the continuity of Government services and

activities, all on-duty or on-site Federal employees, on-site Federal contractors, and other individuals in Federal buildings and on Federal lands are required to wear face coverings (*i.e.*, cloth face coverings or surgical masks), maintain physical distance, and adhere to other public health measures, as provided in CDC guidelines. Additional information on worker protection can be found in OSHA Guidance, [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace, January 29, 2021](#).

2. Where CSHOs are performing an on-site inspection, they shall take all appropriate precautions for distancing, PPE, hygiene, etc., as described in Nevada OSHA's inspection hazard assessment procedures.
3. All personnel engaged in on-site inspection-related activities must use protective measures appropriate for the risk level of the location being inspected, as described by Nevada OSHA's inspection hazard assessment procedures. During the course of travel to/from inspections CSHOs interacting with the general public should follow local CDC guidance and face covering mandates. For voluntary use of filtering facepiece respirators, CSHOs must be provided a copy of [Appendix D](#) of the OSHA Respiratory Protection Standard 29 CFR 1910.134.
4. Respirators shall be selected and used in accordance with the respirator selection procedures in [CPL 02-02-054, Respiratory Protection Program Guidelines](#) and all requirements of the OSHA Respiratory Protection Standard (*i.e.* medically evaluated, fit-tested).
5. CSHOs shall also protect themselves against all non-COVID-19 hazards during an inspection and must use additional personal protective equipment as necessary to protect themselves from hazards (*i.e.*, gloves, goggles). Additional CSHO precautionary guidance and inspection tools are provided in [Appendix C](#) and [Appendix D](#) of this Direction.

F. OSHA Information System (OIS) Coding Instructions.

All enforcement activities (*i.e.*, inspections, complaints, and referrals, etc.) and compliance assistance interventions conducted under this NEP shall be coded as "COVID-19" under the NEP Code field. This code replaces the previous "N-16-COVID-19" in the Additional Code field. This NEP code shall be applied even if the establishment was not among the targeted NAICS listed in the appendices, as long as COVID-19-related hazardous conditions were investigated.

Additionally, inspections conducted under this NEP are to be coded under Inspection Category as a "Health" inspection unless the inspection was initiated as an unprogrammed safety inspection where no COVID-19 related hazards were

initially alleged, but were later found during the course of the inspection. In such a case, the inspection should be coded under Inspection Category as a “Safety” inspection.

Whenever a consultation request/visit is made related to this NEP, the NEP code “COVID-19” shall be recorded in the appropriate field on the Consultation request/visit forms.

CSHOs should identify any COVID-19 violations or HALs using the Related Event Code (REC) field under the Additional Information Section in the violation screen. CSHOs should select “COVID-19” in the Related Event Code section. If applicable, other Related Event Codes should also be selected to relate the violation or HAL to the fatality, complaint, referral, etc. *The COVID-19 Related Event Code is in addition to the other COVID-19 coding required.*

**NOTE:** Until further notice, the agency will continue to track inspections conducted entirely remotely for COVID-19-related complaints, referrals, or fatalities. When an inspection is conducted entirely remotely, CSHOs shall enter the code “N-10-COVID-19 REMOTE” under the Additional Codes section in OIS for all COVID-19 related inspections that are conducted completely offsite, in addition to the code, COVID-19, for the NEP. In addition, Regions shall also retroactively code (if not previously done) all COVID-19-related remote inspections conducted since February 1, 2020. State Plans are strongly encouraged to begin or continue using the N-10-COVID-19 REMOTE code as well, so that data can be gathered on a nationwide basis.

Table 1, below, provides a summary of all COVID-19-related OIS codes.

**Table 1. List of OIS codes for COVID-19-related inspections/activities**

OIS Field	OIS Codes	Activity Type
NEP	COVID-19	All enforcement and compliance assistance activities conducted under this NEP (complaints, fatalities, referrals, inspections, etc.)
Additional Code	N-10-COVID-19 REMOTE	Code used for COVID-19- related inspections that are conducted completely off site
Additional Code	N-10-ABATEMENT DEFERRED	Inspections of establishments where there were hazards that would normally have been cited, but enforcement discretion was used to defer issuance of violation for COVID-19-related hazards (refer to Section XII.C.2. for further guidance)
Related Event Code (REC)	COVID-19	All COVID-19-related violations and HALs

G. Outreach.

1. Offices.

As discussed above, at the beginning of [Section XII.D](#), each Area Office shall continue conducting outreach programs concerning COVID-19, including new guidance and this NEP, in accordance with OSHA Memorandum on [Procedures for Local and Regional Emphasis Programs](#), December 3, 2014. The National Office shall conduct nationwide outreach upon issuance of this NEP, using public announcements and communications to media, stakeholders, and alliances.

2. Suggested Local Outreach.

Products and activities may include the following:

- a. Letters and news releases announcing implementation of the updated COVID-19 NEP. Include information about no-cost On-Site Consultation services available to small businesses.
- b. Seminars on COVID-19-related topics, tailored for specific audiences, such as employers, employee groups and unions in industries such as but not limited to healthcare, meat and poultry, correctional institutions. Local organizations and groups can be invited to participate.
- c. Working with national and regional offices of federal agencies with similar outreach goals, such as CMS, EEOC, USDA, WHD, to disseminate information on the NEP, and the pandemic's effects on vulnerable and disadvantaged workers.
- d. Working with existing cooperative programs, such as partnerships and alliances, including disseminating information on the NEP and sharing successes and technical information on effective means to control and reduce or eliminate worker exposure to SARS-CoV-2.
- e. Forming new working relationships, including partnerships and alliances, and more informal working relationships with organizations that can help disseminate information to small businesses and other employers.
- f. Working with On-Site Consultation programs, local Small Business Development Centers (SBDC), and other organizations to reach small businesses.
- g. Sharing information on the rights of workers and responsibilities of employers for maintaining a workplace free from retaliation. This includes whistleblower protections and anti-retaliation principles. The Recommended Practices for Anti-Retaliation Programs can be used as a resource and outreach tool.

h. For more outreach ideas, see the OSHA COVID-19 webpage.

3. Targeted Audiences for Outreach.

- a. Local employers in high-hazard industries. *See also* targeted industries in [Appendix A](#) and [Appendix B](#).
- b. Local worker groups and unions.
- c. Local employer associations (*e.g.*, a local chamber of commerce).
- d. Insurance companies.
- e. Local hospitals, occupational health clinics, and other health organizations (*e.g.*, state lung associations).
- f. Local professional associations (*e.g.*, local safety councils and dental or medical groups).
- g. Temporary employment agencies providing employees to targeted employers (*e.g.*, visiting nurses and per diem staff).
- h. Local newspapers, TV stations, trade magazines (these can help inform the public and hard-to-reach employers).
- i. Local government (*e.g.*, health departments, departments of correction, and departments of transportation).
- j. Local suppliers of materials or services, equipment transportation companies.

4. Online Materials.

OSHA resources may be of assistance in this outreach effort. A variety of online resources can be accessed through OSHA's public webpage, including the OSHA COVID-19 Safety and Health Topics Page ([www.osha.gov/coronavirus](http://www.osha.gov/coronavirus)). Internal resources for COVID-19 are also available on the OSHA intranet.

H. Coordination.

1. National Office.

This NEP will be coordinated by the Directorate of Enforcement Programs (DEP), Office of Health Enforcement (OHE). All questions and comments regarding this NEP should be directed to OHE. For inspection support, Area and Regional Offices may also coordinate, as needed, with the Directorate of Technical Support and Emergency Management (DTSEM), the Office of Occupational Medicine and Nursing (OOMN), the Health Response Team (HRT), and other offices. For questions about outreach support and resources, contact the Office of Outreach Services and Alliances (OOSA) in the Directorate of Cooperative and State Programs (DCSP).

2. Regional Office.

Each Regional Administrator is required to identify a coordinator for this NEP who will work with the Office of Health Enforcement.

I. Program Review.

To assess the effectiveness of this NEP, DEP will review the NEP within six months of issuance, per [ADM 03-00-003](#), to determine whether the policy contained herein will be continued, and take steps to assure its replacement with a cleared Instruction, if needed, as soon as possible. Regions that implement related LEPs and REPs should forward any periodic reports to OHE. The program review reports shall, at a minimum, address the NEP goal (*see* [Section XI](#)) in accordance with established Agency procedures. Data on effectiveness may include:

1. The number of employees covered by the inspection.
2. The number of workers removed from hazards.
3. Abatement measures implemented.
4. Number of violations related to specific targeted hazards.
5. Any indices that relate directly to measures that may be included in the DOL Strategic Plan and/or the OSHA Operating Plan.
6. Total number of prosecutable, COVID-19-related violations of OSHA standards (including final citations resulting from the settlement or litigation of contested cases).



## APPENDIX A: Primary Target Industries for the COVID-19 NEP

Appendix A provides lists of NAICS codes in general industry from the public COVID-19 Enforcement Data (*e.g.*, complaints, FAT/CAT, referrals, inspections, COVID-19-related violations and HALs) where OSHA data shows the 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, respectively, with OSHA enforcement activities related to COVID-19 over the past year.

**NOTE:** Employee exposures to COVID-19-related hazards may occur in industries not listed in this Appendix. Similarly, it should not be assumed that employee exposure to COVID-19 occurs in all establishments within the industries listed in the tables below.

For certain industries not available using ListGen (*e.g.*, NAICS 621111, 621210, 621610, 722511, 722513, and 922140), alternative sources may be utilized (*e.g.*, Reference USA).

**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**

<b>NAICS Code</b>	<b>Industry</b>
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

**\*Note:** Establishments within the Temporary Help Services (NAICS 561320) industry should not be automatically included in the targeting list for programmed inspections. Although this industry has been among the top industries with OSHA enforcement activities related to COVID-19, this has primarily occurred where services occurred at host healthcare facilities and other high-hazard workplaces. Therefore, to effectively address SARS-CoV-2 hazards for Temporary Help Services, where OSHA is conducting an inspection for other purposes, a COVID-19-related inspection shall be opened for all hazardous conditions observed in plain view (such as, for example, temporary employees working in high exposure areas without adequate PPE).

## APPENDIX B: Secondary Target Industries for the COVID-19 NEP

Appendix B 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. This list was generated for critical infrastructure industries identified both by the Cybersecurity & Infrastructure Security Agency (CISA) and the Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices (ACIP). 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.<sup>1</sup>

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

**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

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<sup>1</sup> See, *Identifying Critical Infrastructure During COVID-19*, CISA, December, 2020, available at: [www.cisa.gov/identifying-critical-infrastructure-during-covid-19](http://www.cisa.gov/identifying-critical-infrastructure-during-covid-19), and the *Interim List of Categories of Essential Workers Mapped to Standardized Industry Codes and Titles*, CDC, January, 2021, available at: [www.cdc.gov/vaccines/covid-19/categories-essential-workers](http://www.cdc.gov/vaccines/covid-19/categories-essential-workers).

<b>NAICS Code</b>	<b>Industry</b>	<b>CISA v4.0 Sector</b>
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
713210	Casinos (Except Casino Hotels)	Commercial Facilities
713290	Other Gambling Industries	Commercial Facilities
721120	Casino Hotels	Commercial Facilities
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

\* **NOTE:** For certain industries such as these (Postal Services, NAICS 491110, Ship Building and Ship

Repairing, NAICS 336611, and Construction, NAICS 236xxx, 237xxx, 238xxx), some of which have had a large number or high rate of COVID-19-related complaints in some communities during 2020, District Managers should use discretion based on local information pertaining to COVID-19-related workplace exposures, to determine whether an industry should be considered in the generating of their master lists of establishments.

## APPENDIX C: CSHO Pre-Inspection Checklist

Here are some things to consider before proceeding with any inspection:

- Υ Ensure the availability and use of appropriate respiratory protection or face coverings in accordance with Nevada OSHA's COVID-19 hazard assessment procedures.
- Υ Ensure all PPE, inspection equipment, and media are retrievable and ready for use.
- Υ Ensure portable computer and cellular phone are charged and serviceable.
- Υ Review any relevant decontamination procedures for this equipment and the vehicle.
- Υ For unprogrammed activity (UPAs) inspections directly related to COVID-19 or for any inspection that must be completed, the manager/supervisor/CSHO, in consultation with designated state administration staff, will review the PPE hazard assessment based on the establishment's risk level prior to entry and update it as necessary for each inspection.
- Υ Ensure vehicle is road-ready to include hand sanitizer, disinfecting wipes, or other disinfecting agents (as required), and bags to dispose of contaminated PPE and used disinfecting wipes. Before and after using the vehicle, workers should use a disinfecting wipe to clean the steering wheel, knobs, handles, and other touched surfaces in the vehicle.
- Υ CSHOs should minimize exposures by avoiding making additional stops (*e.g.* gas stations, restaurants), while on the job, to the extent possible.
- Υ Develop a document request letter in advance of the opening conference (*e.g.* programs, OSHA Form 300/300A, and summaries) to be provided to the employer during the opening conference to limit in-person discussions as much as possible. Use email or fax if available.

## APPENDIX D: General Safety & Health Inspection Precautions for Compliance Staff

**NOTE:** Refer to Attachment 1, Section III, of the [Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#) for more information on CSHO protection and training.

- Compliance Safety and Health Officers (CSHOs) should self-disclose if there is reason they are not able to do the inspection, consistent with the criteria in OSHA's Updated Interim Enforcement Response Plan and CDC guidance (they do not need to identify the specific reason).
- The Compliance Supervisor will inquire about the CSHO's general health status prior to going on site, without delving into any personally identifiable information and may use this information to assign inspections.
- Compliance staff are advised to stay home if sick and practice respiratory etiquette (*e.g.* cough into your elbow crease, tissue, or handkerchief).
- CSHOs are encouraged, to the extent possible, to travel to inspection sites separately.
- Avoid touching surfaces at site locations as much as possible and stops along the route of travel for rest breaks and other needs. Face coverings are required when entering a building or common space.
- CSHOs may contact the facility administrator via telephone when arriving and request they be admitted through an area with low or no employee or patient access or enter through the lobby area.
- Where on-site inspections are conducted, CSHOs should, to the extent possible, maintain >6 feet of distance from interviewed employees, avoid interviewing multiple employees in the same area, and if possible perform interviews by phone or outside of the facility.
- Should the CSHO determine an employee interview is necessary with an individual who has a known positive test result, recent exposure, or active SARS-CoV-2 case, the CSHO should embrace the use of technology to facilitate the employee interview. CSHOs are authorized to use teleconferencing applications, including FaceTime, Teams, or WebEx to facilitate remote interviews. Access to agency WebEx systems can be coordinated through the Program Coordinators. Use caution when conducting interviews via video conferencing software, and confirm that the remote site permits an appropriate degree of confidentiality for the person being interviewed.
- Take the minimal equipment necessary to conduct the inspection.
- CSHOs can place cell phones and camera devices in plastic bags to limit touching them, and should avoid putting them down on surfaces.
- CSHO will query the facility regarding infection control procedures in place as well as site specific PPE requirements.
- Follow any specific safety procedures the facility may have in place.
- Maximize use of social distancing at all times.
- In hospitals or healthcare settings, CSHOs should avoid areas in the facility where acute patient care operations are underway such as the Emergency Department, Outpatient Clinics and waiting room areas.

- If all alternative measures are exhausted and CSHOs believe they must enter one of the aforementioned areas, they shall immediately **STOP** the inspection activities and contact their District Manager/Compliance Supervisor for further guidance to determine whether to continue with an on-site inspection or move to remote means.



## Appendix E: Sample Employer Letter to Corporate Offices for COVID-19 Activities

Bracketed and/or italicized comments are for OSHA compliance use only and should be removed when appropriately completed with the case-specific information.

RE: OSHA Inspection No. [ ]

Dear Employer:

On **[Date]**, the Nevada Occupational Safety and Health Administration (NVOSHA) conducted an inspection and evaluation of your worksite at **[Location]** for hazards related to potential exposure to SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), which is the virus causing coronavirus disease 2019 (COVID-19).

During the inspection, NVOSHA determined that hazards were found in violation of the OSHA standards, resulting in the issuance of COVID-19-related [citations or a Hazard Alert Letter] to **[Company]**. A copy of the [citations and/or letter] is attached.

Based on the guidelines of the Centers for Disease Control and Prevention (CDC) (cited below), it is recommended that employers take the necessary precautions to materially reduce employees' exposure to COVID-19-related hazards.

Because you have other establishments that could present similar hazards, the Nevada Occupational Safety and Health Administration is recommending that you conduct a hazard assessment for potential hazards in your other establishment(s). To ensure that COVID-19-related hazards are promptly identified and addressed at your other locations, please facilitate immediate corrective action where needed. NVOSHA recommends that you also institute additional protective measures and review the safety and health practices of your worksites to ensure consistency with CDC recommendations and compliance with applicable OSHA standards. Depending on potential hazards revealed in your hazard assessment, adherence to several OSHA requirements may be necessary to eliminate or reduce employee exposures to SARS-CoV-2, including:

- 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illness.
- 29 CFR § 1910.132, General Requirements - Personal Protective Equipment.
- 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.
- NRS 618.375(1), General Duty Clause of the Nevada Occupational Safety and Health Act.
- 29 CFR §1910.1030, Bloodborne Pathogens Standard

OSHA's Bloodborne Pathogens standard ([29 CFR § 1910.1030](#)) applies to occupational exposure to human blood and other potentially infectious materials that typically do not include respiratory secretions that may contain SARS-CoV-2 (unless visible blood is present). However, the

provisions of the standard offer a framework that may help control some sources of the virus, including exposures to [body fluids](#) (e.g., respiratory secretions) not covered by the standard. Information about these and other OSHA requirements can be found on OSHA's website at [www.osha.gov/laws-regs](http://www.osha.gov/laws-regs).

OSHA's website, [www.osha.gov](http://www.osha.gov), offers a wide range of safety and health-related guidance in response to the needs of the working public, both employers and employees. The following guidance may help employers prevent and address workplace exposures to pathogens that cause acute respiratory illnesses, including COVID-19 illness. The guidance includes descriptions of the relevant hazards, how to identify the hazards, and appropriate control measures. Additional resources are provided that address these supply issues and contain industry-specific guidance.

1. For OSHA's latest information and guidance on the COVID-19 outbreak, please refer to OSHA's COVID-19 Safety and Health Topics Page, located at <http://www.osha.gov/coronavirus>
2. Nevada OSHA publishes industry-specific guidance and compliance requirements at its website, [www.dir.nv.gov/osha](http://www.dir.nv.gov/osha)

The Centers for Disease Control and Prevention (CDC) also maintains a website that provides information for employers concerned about COVID-19 infections in the workplace. The CDC has provided specific guidance for businesses and employers at the following CDC webpage, which is updated regularly: [www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers](http://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers).

1. For general information and guidance on the COVID-19 outbreak, please refer to the CDC's main topic webpage at [www.cdc.gov/coronavirus/2019-ncov](http://www.cdc.gov/coronavirus/2019-ncov).
2. CDC, NIOSH / COVID-19 Information for the Workplace at [www.cdc.gov/niosh/emres/2019\\_ncov.html?deliveryName=USCDC\\_308-DM26149#anchor\\_15815383749681](http://www.cdc.gov/niosh/emres/2019_ncov.html?deliveryName=USCDC_308-DM26149#anchor_15815383749681).

The CDC recommends employers take the following steps to prevent the spread of COVID-19:

- Use of face coverings or masks throughout the workplace
- Actively encourage sick employees to stay home
- Accommodate employees through social distancing or telework (if possible)
- Emphasize proper respiratory etiquette and hand hygiene by all employees
- Perform routine environmental cleaning
- Check government websites (CDC, State Department) for any travel advisories (where applicable)
- Plan for infection disease outbreaks in the workplace

We strongly urge you to share this letter with all of the worksites within your corporation, as well as with representatives of any recognized employee union or safety committee that may exist at your facilities.

Please note that Nevada Revised Statutes section 618.445 protects employees against retaliation or adverse action because of their involvement in protected safety and health related activity.

If you have questions regarding this issue, you may contact me at the address in the letterhead. I appreciate your personal support and interest in the safety and health of your employees.

Sincerely,

**[Enter DM name]**  
District Manager

## APPENDIX F: Additional References

1. Presidential Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing (January 20, 2021): [www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-the-federal-workforce-and-requiring-mask-wearing](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-the-federal-workforce-and-requiring-mask-wearing)
2. OSHA Memorandum, Revised Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19) (May 19, 2020): [www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19](https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19)
3. OSHA Memorandum, Enforcement Guidance on Decontamination of Filtering Facepiece Respirators in Healthcare During the Coronavirus Disease 2019 (COVID-19) Pandemic (April 24, 2020): [www.osha.gov/memos/2020-04-24/enforcement-guidance-decontamination-filtering-facepiece-respirators-healthcare](https://www.osha.gov/memos/2020-04-24/enforcement-guidance-decontamination-filtering-facepiece-respirators-healthcare)
4. OSHA Memorandum, Discretion in Enforcement when Considering an Employer's Good Faith Efforts During the Coronavirus Disease 2019 (COVID-19) Pandemic (April 16, 2020): [www.osha.gov/memos/2020-04-16/discretion-enforcement-when-considering-employers-good-faith-efforts-during](https://www.osha.gov/memos/2020-04-16/discretion-enforcement-when-considering-employers-good-faith-efforts-during)
5. OSHA Memorandum, Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic (April 3, 2020): [www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus)
6. OSHA Memorandum, Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic (April 3, 2020): [www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under)
7. OSHA Memorandum, Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic (April 8, 2020): [www.osha.gov/memos/2020-04-08/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95](https://www.osha.gov/memos/2020-04-08/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95)
8. OSHA Memorandum, Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak (March 14, 2020): [www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit](https://www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit)

9. OSHA Memorandum, Interim Enforcement Procedures for New Recordkeeping Requirements Under 29 CFR 1904.35 (November 10, 2016): [www.osha.gov/laws-regs/standardinterpretations/2016-11-10](http://www.osha.gov/laws-regs/standardinterpretations/2016-11-10)
10. OSHA National News Release, U.S. Department of Labor Reminds Employers That They Cannot Retaliate Against Workers Reporting Unsafe Conditions During Coronavirus Pandemic (April 4, 2020): [www.osha.gov/news/newsreleases/national/04082020](http://www.osha.gov/news/newsreleases/national/04082020)
11. OSHA Publication, Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus (Poster) (OSHA pub 3994/3995): [www.osha.gov/Publications/OSHA3994.pdf](http://www.osha.gov/Publications/OSHA3994.pdf)
12. OSHA Publication, Guidance on Social Distancing at Work (OSHA pub 4027/4028): [www.osha.gov/Publications/OSHA4027.pdf](http://www.osha.gov/Publications/OSHA4027.pdf)
13. OSHA Publication, Whistleblower: Recommended Practices for Anti-Retaliation Program (OSHA pub 3905): [www.osha.gov/Publications/OSHA3905.pdf](http://www.osha.gov/Publications/OSHA3905.pdf)
14. OSHA Safety & Health Topics Page, Frequently Asked Questions – Cloth Face Coverings: [www.osha.gov/coronavirus/faqs#cloth-face-coverings](http://www.osha.gov/coronavirus/faqs#cloth-face-coverings)
15. CDC, Hospital Preparedness Assessment Tool: [www.cdc.gov/coronavirus/2019-ncov/downloads/hospital-preparedness-checklist.pdf](http://www.cdc.gov/coronavirus/2019-ncov/downloads/hospital-preparedness-checklist.pdf)
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20. Centers for Medicare and Medicaid Services (CMS), Opening Up America Again: [www.cms.gov/files/document/covid-flexibility-reopen-essential-non-covid-services.pdf](http://www.cms.gov/files/document/covid-flexibility-reopen-essential-non-covid-services.pdf)  
[This reference may have become an archive document but may be used for historical content, for research and review purposes only.]
21. Environmental Protection Agency (EPA), Guidance on disinfectants, water and wastewater: [www.epa.gov/coronavirus](http://www.epa.gov/coronavirus)

22. EPA, List N: Disinfectants for Use Against SARS-CoV-2: [www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2](http://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2)
23. EPA, Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools and Homes: [www.epa.gov/coronavirus/guidance-cleaning-and-disinfecting-public-spaces-workplaces-businesses-schools-and-homes](http://www.epa.gov/coronavirus/guidance-cleaning-and-disinfecting-public-spaces-workplaces-businesses-schools-and-homes)
24. Federal Emergency Management Agency (FEMA), Coronavirus (COVID-19) Response: [www.fema.gov/coronavirus](http://www.fema.gov/coronavirus)