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

July 23, 2020

Subject: 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 June 26, 2020 and is posted at <http://dir.nv.gov/OSHA/Home/>.

What has the Division of Industrial Relations been asked to do to enforce the Governor's directives?

Page 5 of the [Reopening Response Plan](#) released on the NV Health Response website on July 1, 2020, states that the Division of Industrial Relations will be doing the following:

"DIR will increase available staffing to ensure that regular and unannounced surveillance of businesses in communities with high rates of COVID-19 cases occur."

Has DIR changed the regular OSHA Enforcement Process?

Yes, DIR has changed its regular enforcement process to accomplish the goals of the Reopening Response Plan.

Step 1: Observation

DIR employees make unannounced visits to businesses to observe compliance with 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 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.

Qualified employees from OSHA, the Safety Consultation and Training Section (SCATS), as well as other employees of the Division are conducting some of these observations to maximize the total number of observations which can be conducted by the Division.

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The data from these visits is provided to the DIR Administrator. This information is used to focus future enforcement action against 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 can lead to a citation. An opening conference would be conducted at that time.

If a citation is issued, a notice is provided with 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?

As part of the Reopening Response Plan, DIR is also taking complaints regarding noncompliance by businesses with the Governor's directives related to COVID-19.

The Plan indicates that DIR will be doing the following:

"1. Two call-in lines are available for the public to report businesses not following COVID-19 directives to OSHA: (702) 486-9020 and (775) 688-3700. These call-in lines will be promoted so Nevadans are easily able to help ensure enforcement in their communities.

- a. DIR will redirect current staff to the call-in line to ensure a person is able to take complaints and understand the concerns of the complainant.
- b. DIR will direct staff to onsite inspections of the complaints, as needed, based on the scope and severity of the complaint."

OSHA is following 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