



## Safety News Alert: Coronavirus

by Gary Auman of Auman, Mahan & Furry

Coronavirus disease (COVID-19) is on many employers' minds, creating questions and fears as to how to plan for the future and what their obligations to their employees may be. False information is also rampant as people teeter between panic and apathy. As such, now is a good time for employers to take action in preparing both their employees and their worksites for possible implications of the virus.

OSHA has released a guidance document for employers on their website at <https://www.osha.gov/Publications/OSHA3990.pdf>. It is essential for employers to remember that both this OSHA guidance publication and this Safety News Alert are only **RECOMMENDATIONS**; they are not **additional rules that employers must comply with under OSHA**. With that said, it would be prudent for employers to consider the advice both in the publication and in this alert.

In its publication OSHA has provided exposure risks in four categories: very high, high, medium, and low. The very high risk is for those medical, laboratory, or postmortem staff who are involved with known or suspected cases of COVID-19 and use aerosol generating procedures or specimen handling. The high category includes those medical, postmortem, or laboratory staff who do not use aerosol generating procedures or potential COVID-19 specimens. Most employers do not fall into the top two categories.

The medium risk category is where many more employers will have concerns. According to OSHA, jobs having a medium risk "include those that require frequent and/or close contact (i.e., within 6 feet of) other people who may be infected." This would include potential exposure through community transmission, the general public, travel, retail, etc. This also includes contact with those who may not know they are sick.

Jobs that require no contact with possibly infected people (or within 6 feet of the general public) fall into the lowest risk category. OSHA has provided this pyramid visual, showing that most employers are in the lower risk and medium risk groups.

Based on these four categories, **OSHA has SUGGESTED, not required**, procedures for employers. Those in the lowest risk category have one primary suggestion: monitor public health information both in your state and with the CDC and make sure your workers are aware of their recommendations. No additional protections are currently recommended – no facemasks or engineering controls. This suggestion, if implemented, will result in communicating those recommendations to employees.



Those employers in the medium risk category should *consider* making some changes. OSHA recommends that these employers consider restricting public access, potentially using facemasks, limiting face-to-face contact, and even making medical screening available. Each employer should assess the kind of contacts they have with people when implementing these suggestions. For instance, grocery businesses will likely have more contact with the general public than roofing operations. It is up to each employer to determine the risks at each worksite and how to protect their employees. It would

be rare for employers in this category to require respirators, but if they are used, remember a written respiratory protection program as well as other requirements under OSHA **MUST** then be followed.

Those employers in the high and very high risk categories have several more considerations according to OSHA including engineering controls like isolation rooms; administrative controls like signs, monitoring of both medical and stress induced conditions, and education; and personal protective equipment such as respirators.

It is important to remember that these are OSHA recommendations and not additional rules. However, with the spread of the coronavirus and the fears associated with it, it may be wise for employers to at least consider implementing some of OSHA's **recommendations to all employers**. OSHA advises all employers to develop an Infectious Disease Preparedness and Response Plan to include the following: how to implement governmental guidance; assessing the level of exposure risk to employees; non-occupational risk factors; worker specific risk factors (i.e. age and health); potential controls for those risks; and contingency plans for outbreaks such as absence, distancing, remote work, reduced or staggered workforce, and supply chain interruptions.

Employers should also consider implementing policies such as encouraging frequent handwashing, staying home if they are sick, housekeeping, and not sharing equipment where possible. OSHA recommends employers develop policies and procedures and train employees on them should an employee become infected with COVID-19 including identification, reporting of symptoms, and potential isolation at the jobsite. Employers should consider addressing employees' concerns regarding sick policies, absenteeism, and pay issues. Employers should not require a sick note for an absence as this would expose more people to the virus.

There are more recommendations available on the OSHA, CDC, and state websites. Although these are not required rules, it would be prudent for employers to take action in preparing for possible implications of the virus. This is not a time to panic, but it is a time to prepare. Having a plan, educating employees on that plan, and implementing precautionary measures is vital to securing a non-panicked prepared workforce. Employers should be aware that OSHA is receiving complaints from workers regarding allegations of a lack of concern and effort by some employers to take proactive steps to protect their workforce in light of COVID-19. In such cases OSHA, if it were to investigate, would do so under the General Duty Clause.

For your convenience and as a benefit of your membership, the association's legal services plan is available to assist you on questions related to COVID-19 and other safety and health or labor and employment law issues that you encounter in your business. In addition to the free calls your plan already offers, Auman Mahan & Furry has agreed to provide association members with one (1) additional free, 30-minute call on the topic of COVID-19 between now and April 24, 2020. During that same time period, our firm will also provide the same free COVID-19 call to any company that contacts us and lets us know they were referred by an association member. To take advantage of this, please contact Gary Auman, at 937-223-6003.