

**10 a.m. (EST)**  
**Via Zoom**



## **Safety & Workers' Compensation Committee Agenda**

**March 17, 2021**

<b>Welcome &amp; Self-Introductions</b>	Matt Shurte, Lancaster Colony Corporation
<b>Workers' Compensation Update</b>	Brian Jackson, OMA Staff
<b>COVID-19 Presentation</b>	Martin Tremmel, Public Health Expert
<b>Safety Update and OSHA Inspection Information</b>	Dianne Grote Adams, Safex
<b>Guest Speaker</b>	John Logue, BWC Interim Administrator/CEO
<b>OMA Counsel's Report</b>	Sue Roudebush, Bricker & Eckler LLP
<b>Public Policy Report</b>	Rachael Carl, OMA Staff
	Discussion on employee safety and compensation changes due to COVID-19

**2021 Committee Meeting  
Calendar**

**Meetings begin at 10 a.m.**

Wednesday, March 17  
Tuesday, June 22  
Wednesday, October 20

**Our Meeting Sponsor:**



OMA Safety and Workers' Comp Committee - Mar 2021

Name	Company	Location
LaWanda Alexander	Panelmatic Cincinnati, Inc.	
Ryan R. Augsburg	The Ohio Manufacturers' Association	Columbus, OH United States
David Ballinger	ArcelorMittal Cleveland	Cleveland, OH United States
Jase Barhorst	Ramco Electric Motors, Inc.	Greenville, OH United States
Brenda Barker, R.N.	Scotts Miracle-Gro Company	Marysville, OH United States
Charlene Beeson	SumiRiko Ohio, Inc.	Bluffton, OH United States
Joseph Kyle Belford	Republic Steel	Canton, OH United States
Paige Benedict	Production Tube Cutting	Dayton, OH United States
Mary Ann Billet	Brilex Industries, Inc.	Youngstown, OH United States
Terry Boose	Norwalk Concrete Industries	Norwalk, OH United States
Rob Brundrett	The Ohio Manufacturers' Association	Columbus, OH United States
Logan Brutcher	Norwalk Concrete Industries	Norwalk, OH United States
Angela Buchowski	Pierre's Ice Cream Company	Cleveland, OH United States
Stephen Buehrer	Carpenter Lipps & Leland LLP	Columbus, OH United States
Rachael Carl	The Ohio Manufacturers' Association	Columbus, OH United States
Corrine Carman	Vorys, Sater, Seymour & Pease LLP	Columbus, OH United States
Wendy Carroll	Mid West Fabricating Company	Amanda, OH United States
John Cemelich	Calfee, Halter & Griswold LLP	Cleveland, OH United States
Valerie Clarke	Podnar Plastics, Inc.	Kent, OH United States
Randy Counts	Thieman Tailgates, Inc.	Celina, OH United States
Garrett Cravener	American Honda Motor Company	Marysville, OH United States
David Deerwester	Yost Superior Company	Springfield, OH United States
Stacy DeLong	Retriev Technologies Inc.	Lancaster, OH United States
Wendy Dobyns	AutoGate	Berlin Heights, OH United States
Don Dragolich	The Lincoln Electric Company	Cleveland, OH United States
Joseph F. Dutt	Summitville Laboratories	Minerva, OH United States
Catrina Easterday	Wilson Bohannon Co	Marion, OH United States
Lisa Espinosa	McGregor Metalworking Companies	Springfield, OH United States
Eric Fischer	Butech Bliss	Salem, OH United States
Jennifer J. Friel	Mid West Fabricating Company	Amanda, OH United States
Susan Gaunce	Komar Industries, Inc.	Groveport, OH United States
Dawn Gill	KDC/One	New Albany, OH United States
Jennifer Gilliland	Identity Systems Inc	Columbus, OH United States
Barb Golding	MJM Industries, Inc.	Painesville, OH United States
Kelley Grant	Windsor Mold USA Inc.	Saline, MI United States
Michael Hackett	Morrison Products Inc.	Cleveland, OH United States
Lisa Haggart	Middletown Tube Works Inc	Middletown, OH United States
Nathan Hancovsky	Taylor Metal Products Company	Mansfield, OH United States
Julia Harber	Metallic Resources, Inc.	Twinsburg, OH United States
Charlie Hardman	Venture Products, Inc.	Orrville, OH United States
Sandy L. Harper	ROKI AMERICA Co., Ltd.	Findlay, OH United States
Chris Hassmann	Warren Rupp, Inc.	Mansfield, OH United States
Tim Hawthorne	D S V Solutions, L.H.S.C.	
Nathan C. Hunt	Thompson Hine LLP	Dayton, OH United States
Stephanie Hunt, CPA	Stillwater Technologies Inc.	Troy, OH United States
Brian Jackson	The Ohio Manufacturers' Association	Columbus, OH United States
Victoria Jahnsz	Elyria Plastic Products	Elyria, OH United States
Karen James	The Ohio Manufacturers' Association	Columbus, OH United States
Matthew F. Johnston	Worthington Industries, Inc.	Columbus, OH United States
Laura Jones	SumiRiko Ohio, Inc.	Bluffton, OH United States
Laura Kalamets	Radici Plastics USA	Wadsworth, OH United States
Jamie Karl	The Ohio Manufacturers' Association	Columbus, OH United States
Debbra Kaufman	Wiley Companies	Coshocton, OH United States
Elena L. Kelly	Lukjan Metal Products Inc	Conneaut, OH United States
Doug Kennedy	Roetzel & Andress	Akron, OH United States
Vickie Kent	Superior Forge & Steel Corporation	Lima, OH United States
Jeff Kidney	Compensation Solutions, Inc.	Powell, OH United States
Amanda LaCombe	Sur-Seal Inc.	Cincinnati, OH United States

OMA Safety and Workers' Comp Committee - Mar 2021

Name	Company	Location
Deborah Lehman	Jamat Leasing Company Inc	Van Wert, OH United States
Anthony Lelli	ZPAST-Bricker & Eckler LLP	
Rachael Lemons	Maval Industries LLC	Twinsburg, OH United States
Brian Lennon	GENERAL DIE CASTER, INC TWINS CAST PLANT	TWINBURG, OH United States
Ashley Lewis	Stellantis	Monroe, MI United States
Jill Lifer	Johnson Bros.-West Salem, Inc.	West Salem, OH United States
Michael Lowe	Venture Products, Inc.	Orrville, OH United States
Kevin Lung	Cargill, Inc.	Cleveland, OH United States
Robin Lynch	Smead Manufacturing Company	Logan, OH United States
Jennifer Main	Wilmington Iron & Metal Co., Inc.	Wilmington, OH United States
Joseph A. Matthews, MOD, PMP, COSS	Principle Business Enterprises, Inc.	Dunbridge, OH United States
Tami Matthews	Decorative Panels International, Inc.	Toledo, OH United States
Sheryl McKissick	M K Architectural Metal Inc	North Canton, OH United States
Ronald M. McMillan	Calfee, Halter & Griswold LLP	Cleveland, United States
Heather Michael	Wiley Companies	Coshocton, OH United States
Jake Miller		North Canton, OH United States
Matt Mohler	Delta Systems	Streetsboro, OH United States
Stephanie M. Morhidge	Wright Tool Company	Barberton, OH United States
Steven Penrod	P. Graham Dunn, Inc.	Dalton, OH United States
Tony Pinks	SumiRiko Ohio, Inc.	Bluffton, OH United States
Linda Pocock	International Metal Hose Company	Bellevue, OH United States
Michael Pulsfort	Health Management Solutions, Inc.	Columbus, OH United States
Daryll Rardon	Commerce Square, Inc. dba Climax Packaging	Hamilton, OH United States
Maurice Julius Reeves	Windsor Mold USA Inc.	Bellevue, OH United States
Katie Rispoli	Vita-Mix Holdings Company	Cleveland, OH United States
Crissy Roach	The Ohio Manufacturers' Association	Columbus, OH United States
Robert M. Robenalt, Esq.	Fisher & Phillips LLP	Columbus, OH United States
Zoi Romanchuk	P R Machine Works, Inc.	Mansfield, OH United States
Sue A. Roudebush	Bricker & Eckler LLP	Columbus, OH United States
Heather Rutz	Lima Refining Company	Lima, OH United States
Tammy Schutte	Sidney Manufacturing Company	Sidney, OH United States
Jennine Seebach	United Surface Finishing	Canton, OH United States
Deborah Shuster	G F S Chemicals, Inc.	Powell, OH United States
Patricia N. Simon	Riten Industries Inc	Washington C. H., OH United States
Courtney Southwick	Preformed Line Products Co.	Mayfield Village, OH United States
Douglas E. Spiker	Roetzel & Andress	Cleveland, OH United States
Michael L. Squillace	Dinsmore & Shohl	Columbus, OH United States
Jerry Stambaugh	Benjamin Steel Company, Inc.	Springfield, OH United States
Duane Steelman	Zaclon, LLC	Cleveland, OH United States
Susan Stephen	Everhard Products, Inc.	Canton, OH United States
Denver W. Stufflebeam	Myers Controlled Power	North Canton, OH United States
Ronald Stupka	Calfee, Halter & Griswold LLP	Cleveland, OH United States
Deborah Sule	Navistar, Inc.	Springfield, OH United States
Shelby Sutphen	Sutphen Corporation	Dublin, OH United States
Joe Swartz	Sidney Manufacturing Company	Sidney, OH United States
Brian Tarian	Roetzel & Andress	Columbus, OH United States
Chris Thacker	Regal Beloit of America-Tipp City	Tipp City, OH United States
Thomas Thompsen, Lt Col, USA (Ret)	The French Oil Mill Machinery Company	Piqua, OH United States
Maria Triozzi	Fredon Corporation	Mentor, OH United States
Stella Tsirelis	Massillon Container Co	Navarre, OH United States
Mark Underwood	Riten Industries Inc	Washington C. H., OH United States
Donna VanDeman	Yenkin Majestic Paint	Columbus, OH United States
Ryoko VanZant	Ohta Press U.S., Inc.	Xenia, OH United States
Stacie Varley	M H Eby, Inc.	West Jefferson, OH United States
Robert Voltz, Sr	Bettcher Industries, Inc.	Vermilion, OH United States
Juliet Walker	The Ohio Manufacturers' Association	Columbus, OH United States

OMA Safety and Workers' Comp Committee - Mar 2021

<b>Name</b>	<b>Company</b>	<b>Location</b>
Dana D. Williams	Robin Industries, Inc.	Independence, OH United States
Teresa Young	White Castle System, Inc.	Columbus, OH United States
Lisa Zakany	Podnar Plastics, Inc.	Kent, OH United States

Total Participants 117

## John Logue



John Logue joined the Ohio Bureau of Workers' Compensation (BWC) as Chief of Strategic Direction in April 2019, before Governor DeWine appointed him as BWC's interim administrator/CEO in November 2020.

Logue is a veteran of the workers' compensation system with more than 25 years of experience in various client service and leadership roles. He began his career as an employer services specialist at BWC before serving in a variety of roles with Ohio-managed care organizations and third-party administration organizations. He served as a vice president at Sedgwick Claims Management Services before re-joining BWC.

He earned a bachelor's degree in economics from John Carroll University, a master's in business administration from Cleveland State University, and earned an Associate in Risk Management designation from the Insurance Institute of America, known today as The Institutes.

# COVID-19 Update

RTW considerations for employees

## Returning Current Employees:

### Algorithms based upon Job Duties

-administration; admin assistants; support staff; fiscal;  
HR; manufacturing/machining/plant personnel; inside sales;  
outside sales; IT; other

-assignments requiring attendance in office (hours or % of time,  
company hardware/software systems accessible on-site/off-site,  
recordkeeping, AP/AR functions; PO; shipping/receiving; etc.)

## Decision Trees

- \*100% return to worksite(s)
- \*Most return
- \*Some return

## Corporate/board Analysis and Review

- objective rationale
- company mission/goals
- fiscal analysis (pre COVID hx v. 2020 COVID data)
- sales data (pre COVID v. 2020)
- lost opportunities (merger/acquisition, capital projects, machinery up-grades, etc.)
- banking (loans, debt, lines of credit)
- legal/HR (EEOC, potential discriminatory liability, work from home requirements)
- unintended consequences (job type drives worksite attendance)



## Employees with Underlying Health Conditions:

### -Worksite requirements

Offer regular/periodic health assessments

Offer self assessments (temp, COVID symptoms, family member COVID status, etc.)

Require temp monitoring (beg-mid-end of day) versus Optional by employee or duties

Require masking, social distancing, handwashing/sanitizer stations

### -Attendance at Scheduled meetings versus Shop Talk

distancing or not (company directive time limited or policy in-place)

### -Work from Home Considerations

company directive time limited or policy in place

## Future and Current Employees:

Policy on work attendance by job duties (or not)

- \*Objective algorithm for employees to view

Analysis based upon risk (COVID or related), public health recommendations, etc.

Use of paid-time-off (PTO) by type (sick, vacation, holiday, FMLA, W Comp, etc.)

- \*hours earned based upon hours worked OR set number for ALL

Different PTO policies for worksite employees versus work-from-home employees

- HR/legal considerations and objective analysis

- \*objective algorithm for employees to view

## Company Customer/Vendor Requirements for on-site Visitors

- Proof of COVID status
  - diagnosed previous, test positive previous, vaccination status
  - \*how long ago; re-vaccination proof, etc.
- Temperature Monitoring
- Masking
- Social Distancing
- Handwashing/Sanitizing
- Other Requirements (drivers license info, etc.)

## Company Requirements for allowing Visitors, Outside Sales, Repair Techs

- Proof of COVID status

  - \*diagnosed previous, test positive previous, vaccination status

- Temperature Monitoring

- Masking

- Social Distancing

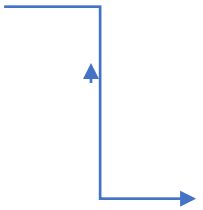
- Handwashing/Sanitizing

- Access to certain area(s), only

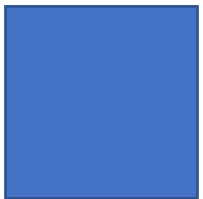
  - \*meeting rooms, restrooms, break rooms, lunch areas



Decision Trees



Algorithms



Company Policies or HR Directives (time limited or not)

## BRIEFING ROOM

# Executive Order on Protecting Worker Health and Safety

JANUARY 21, 2021 • PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** Ensuring the health and safety of workers is a national priority and a moral imperative. Healthcare workers and other essential workers, many of whom are people of color and immigrants, have put their lives on the line during the coronavirus disease 2019 (COVID-19) pandemic. It is the policy of my Administration to protect the health and safety of workers from COVID-19.

The Federal Government must take swift action to reduce the risk that workers may contract COVID-19 in the workplace. That will require issuing science-based guidance to help keep workers safe from COVID-19 exposure, including with respect to mask-wearing; partnering with State and local governments to better protect public employees; enforcing worker health and safety requirements; and pushing for additional resources to help employers protect employees.

**Sec. 2. Protecting Workers from COVID-19 Under the Occupational Safety and Health Act.** The Secretary of Labor, acting through the Assistant Secretary of Labor for Occupational Safety and Health, in furtherance of the policy described in section 1 of this order and consistent with applicable law, shall:

- (a) issue, within 2 weeks of the date of this order and in conjunction or consultation with the heads of any other appropriate executive departments and agencies (agencies), revised guidance to employers on workplace safety during the COVID-19 pandemic;
- (b) consider whether any emergency temporary standards on COVID-19, including with respect to masks in the workplace, are necessary, and if such standards are determined to be necessary, issue them by March 15, 2021;
- (c) review the enforcement efforts of the Occupational Safety and Health Administration (OSHA) related to COVID-19 and identify any short-, medium-, and long-term changes that

could be made to better protect workers and ensure equity in enforcement;

(d) launch a national program to focus OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles; and

(e) coordinate with the Department of Labor's Office of Public Affairs and Office of Public Engagement and all regional OSHA offices to conduct, consistent with applicable law, a multilingual outreach campaign to inform workers and their representatives of their rights under applicable law. This campaign shall include engagement with labor unions, community organizations, and industries, and place a special emphasis on communities hit hardest by the pandemic.

**Sec. 3. Protecting Other Categories of Workers from COVID-19.** (a) The Secretary of Labor, acting through the Assistant Secretary of Labor for Occupational Safety and Health and consistent with applicable law, shall:

(i) coordinate with States that have occupational safety and health plans approved under section 18 of the Occupational Safety and Health Act (Act) (29 U.S.C. 667) to seek to ensure that workers covered by such plans are adequately protected from COVID-19, consistent with any revised guidance or emergency temporary standards issued by OSHA; and

(ii) in States that do not have such plans, consult with State and local government entities with responsibility for public employee safety and health and with public employee unions to bolster protection from COVID-19 for public sector workers.

(b) The Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Energy, in consultation with the heads of any other appropriate agencies, shall, consistent with applicable law, explore mechanisms to protect workers not protected under the Act so that they remain healthy and safe on the job during the COVID-19 pandemic.

(c) The Secretary of Labor, acting through the Assistant Secretary of Labor for Mine Safety and Health, shall consider whether any emergency temporary standards on COVID-19 applicable to coal and metal or non-metal mines are necessary, and if such standards are determined to be necessary and consistent with applicable law, issue them as soon as practicable.

**Sec. 4. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
  - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,  
January 21, 2021.





**News Release**

**OSHA LAUNCHES PROGRAM TO PROTECT HIGH-RISK WORKERS FROM CORONAVIRUS, FOCUSES ON EMPLOYERS THAT RETALIATE AGAINST WORKERS WITH SAFETY CONCERNS**

**WASHINGTON, DC** – In response to President Biden’s executive order on protecting worker health and safety, the U.S. Department of Labor’s [Occupational Safety and Health Administration](#) has launched a [national emphasis program](#) focusing enforcement efforts on companies that put the largest number of workers at serious risk of contracting the coronavirus. The program also prioritizes employers that retaliate against workers for complaints about unsafe or unhealthy conditions, or for exercising other rights protected by federal law.

“This deadly pandemic has taken a staggering toll on U.S. workers and their families. We have a moral obligation to do what we can to protect workers, especially for the many who have no other protection,” said Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health Jim Frederick. “This program seeks to substantially reduce or eliminate coronavirus exposure for workers in companies where risks are high, and to protect workers who raise concerns that their employer is failing to protect them from the risks of exposure.”

NEP inspections will enhance the agency’s previous coronavirus enforcement efforts, and will include some follow-up inspections of worksites inspected in 2020. The program’s focused strategy ensures abatement and includes monitoring the effectiveness of OSHA’s enforcement and guidance efforts. The program will remain in effect for up to one year from its issuance date, though OSHA has the flexibility to amend or cancel the program as the pandemic subsides.

“With more people being vaccinated and the number of infections trending down, we know there is light at the end of the tunnel. But until we are past this pandemic workers deserve a Labor Department that is looking out for their health,” added Frederick.

OSHA state plans have adopted varying requirements to protect employees from coronavirus, and OSHA knows many of them have implemented enforcement programs similar to this NEP. While it does not require it, OSHA strongly encourages the rest to adopt this NEP. State plans must notify federal OSHA of their intention to adopt the NEP within 60 days after its issuance.

In a related action, OSHA has also updated its [Interim Enforcement Response Plan](#) to prioritize the use of on-site workplace inspections where practical, or a combination of on-site and remote methods. OSHA will only use remote-only inspections if the agency determines that on-site inspections cannot be performed safely. On March 18, 2021, OSHA will rescind the May 26, 2020, memorandum on this topic and this new guidance will go into and remain in effect until further notice.

OSHA will ensure that its Compliance Safety and Health Officers have every protection necessary for onsite inspections. When conducting on-site inspections, OSHA will evaluate all risk and utilize appropriate protective measures, including appropriate respiratory protection and other necessary personal protective equipment.

Under the [Occupational Safety and Health Act of 1970](#), employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to help ensure these conditions for America’s working men and women by setting and enforcing standards, and providing training, education and assistance under the Occupational Safety and Health Act.

[Learn more about OSHA.](#)

**Agency:** Occupational Safety & Health Administration

**Date:** March 12, 2021

**Release Number:** 21-256-NAT

**Contact:** Denisha Braxton

**Phone Number:** [202-693-5061](tel:202-693-5061)

**Email:** [braxton.denisha.l@dol.gov](mailto:braxton.denisha.l@dol.gov)

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**Email:** [Lawder.Jesse@dol.gov](mailto:Lawder.Jesse@dol.gov)



# OSHA DIRECTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

**DIRECTIVE NUMBER:** DIR 2021-01 (CPL-03)

**EFFECTIVE DATE:** March 12, 2021

**SUBJECT:** National Emphasis Program – Coronavirus Disease 2019 (COVID-19)

## ABSTRACT

- Purpose:** This Direction describes policies and procedures for implementing a 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 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 OSHA-wide.
- 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](#).  
OSHA Instruction, [CPL 02-00-164](#), *Field Operations Manual (FOM)*, April 14, 2020.  
OSHA Instruction, [CPL 02-03-007](#), *Whistleblower Investigations Manual*, January 28, 2016.  
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:** OSHA Regional and Area Offices, State Plan and State Consultation Offices

**Originating Office:** Directorate of Enforcement Programs, Office of Health Enforcement

**Contact:** Directorate of Enforcement Programs  
Office of Health Enforcement  
200 Constitution Avenue, NW, Room N3119  
Washington, DC 20210

By and Under the Authority of

JAMES S. FREDERICK  
Principal Deputy Assistant Secretary

## **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.

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 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. 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.

## **Significant Changes**

Not applicable. This is a new enforcement program.

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	Appendix F: <a href="#">Additional References</a>	

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).
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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).

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 Area Director's (AD) 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:** Area Directors 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.

Area 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 Area Director is responsible for maintaining documentation necessary to demonstrate that the Area 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), 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 AD 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, Area Offices will document the unsafe condition(s) preventing an on-site inspection and with AD 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 AD'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).

Area Directors 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 Area Director, 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 Section 11(c) of the OSHA Act. If the unprogrammed activity that initiated this inspection includes an allegation of retaliation, the CSHO shall refer this allegation to the Regional Whistleblower Protection Program.

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 AD 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 include, 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, Section 5(a)(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 [Section 5(a)(1) of the OSH Act] 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 Area Director, in consultation with OSHA and the Solicitor of Labor's Regional and National Offices, 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 Area Director determines that an OSHA standard has been violated or a condition exists warranting issuance of a 5(a)(1) violation for an occupational exposure to the SARS-CoV-2 virus, the Regional Office shall follow current National Office 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 OSHA's [Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#). Supervisors shall ensure CSHOs comply with all COVID-19-related SHMS guidance and requirements developed as part of the [ADM 04-00-003](#), *OSHA Safety and Health Management System*.
3. All personnel engaged in on-site inspection-related activities must wear appropriate respiratory protection. 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. See FOM Chapter 3, Section II.C, *Safety and Health Issues Relating to CSHOs*. See also [ADM 04-00-003](#), *OSHA Safety and Health Management System*.

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

<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).

NAICS Code	Industry	CISA v4.0 Sector
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
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, Area Directors 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:

- Ensure the availability and use of appropriate respiratory protection or face coverings at a minimum.
- Ensure all PPE, inspection equipment, and media are retrievable and ready for use.
- Review any relevant decontamination procedures for this equipment and the vehicle, government (GOV) or personal (POV).
- 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 regional office staff, will develop and document a risk assessment that includes an exposure control plan, Job-Hazard Analysis, and PPE hazard assessment prior to entry and update it as necessary for each inspection.
- Ensure GOV or POV is road-ready to include first aid kit, 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.
- CSHOs should minimize exposures by avoiding making additional stops (*e.g.* gas stations, restaurants), while on the job, to the extent possible.
- 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 Assistant Area Director (AAD) 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.
- 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 Area Director/Assistant Area Director 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 Occupational Safety and Health Administration (OSHA) 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, OSHA 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 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. OSHA 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.
- Section 5(a)(1), General Duty Clause of the OSH 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 [www.osha.gov/coronavirus](http://www.osha.gov/coronavirus).
2. Add additional OSHA links, as needed, for industry specific guidance, such as one or more of those listed on the OSHA website.

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).
3. [Add additional CDC links, as needed, for industry specific guidance, such as one or more of those listed on the CDC website.

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 Section 11(c) of the Occupational Safety and Health Act 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 AD name]**  
Area Director

## 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)
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18. CDC, For Specific Industries and Occupations: [www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/specific-industries](http://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/specific-industries)
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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.]
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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)
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**TO: OMA Safety and Workers' Compensation Committee**  
**FROM: Rachael Carl**  
**RE: Safety and Workers' Compensation Public Policy Report**  
**DATE: March 17, 2021**

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### **Overview**

Good news for 2021, the Bureau of Workers' Compensation Board of Directors approved a 7.1% reduction for private employer premiums. This reduction is set to go into effect on July 1<sup>st</sup>, which is the start of the 2021 policy year. This reduction comes on the back of the \$4.3 billion dividends that went to private employers in December.

The operating budgets for the Bureau and the Industrial Commission were introduced in early February. Neither bill contained major policy initiatives or increased appropriation. Fingers crossed, they will stay that way throughout the legislative process.

### **Legislation and Rules**

#### **House Bill 17 – Workers' Compensation in Firefighter Cancer Claims**

This bill would make changes to how compensation and benefits are paid out to a firefighter who contracted cancer. If the claim is paid from the state insurance fund, it shall be paid from the surplus fund account. If it is paid by a self-insuring employer, the amount would be paid from compensation that the employer reports to the Bureau of Workers' Compensation Administrator.

#### **House Bill 75 – State's Bureau of Workers' Compensation Budget**

Although there is a notable decline in the Bureau's requested budget allocations, most of this can be accounted for COVID-19-related expenditures that do not need to continue. (This includes a bump in sending under the Safety Grant line item to pay for masks and \$28 million in federal Coronavirus Relief Fund dollars for the Indoor Air Quality Assistance Program for long-term care facilities.) The Bureau's budget did not include any major policy items, and we have heard from the Senate that they are hoping to keep it that way.

#### **House Bill 76 – State's Industrial Commission Budget**

As expected, the Commission's requested budget includes no big policy changes nor big increases in appropriation. The Industrial Commission has yet to have a first hearing in the House, but we can expect their testimony soon.

#### **Senate Bill 66 – Career Pathways Apprenticeship Program**

The bill would establish the Career Pathways Apprenticeship Program. The program would create partnerships between schools, businesses, and communities to develop career pathways for apprenticeships in various fields, including manufacturing, information technology, and healthcare, among others.

#### **Senate Bill 69 – Noncredit Career-Technical Programs**

This bill would require that career or technical certification programs offered at a community college be counted as a credit toward an associate degree in a related field. The Chancellor of Higher Education would establish the policies necessary for awarding those credits.

## **BWC Agency Notes**

### **Registration Open for BWC's Workplace Safety and Health Conference**

Registration is now open for the Ohio Safety Congress & Expo (OSC 2021) hosted by the Ohio Bureau of Workers' Compensation (BWC).

OSC 2021 is the largest regional safety and health conference in the U.S. and will run March 10-11 online. Safety congress offers a live broadcast of educational sessions and resources that customers can access from anywhere.

OSC 2021 will feature dozens of educational sessions presented by experts from across the country on topics related to injury and illness prevention, wellness, and cost savings. A digital Expo Marketplace will host more than 60 exhibitors. Attendance is free for Ohio employers and their employees.

### **Private Employers to Save \$71.5 Million Over This Year's Premiums**

Private employers covered by the Ohio BWC will pay \$71.5 million less in premiums next policy year thanks to a rate reduction BWC's Board of Directors approved on Feb. 26<sup>th</sup>.

The Board approved a net 7.1% decrease to private employer rates and assessments during its regular monthly meeting this morning, affecting approximately 220,000 employers across the state. The reduction goes into effect Jul. 1, the start of the 2021 policy year.

The Board's action marks the fourth consecutive rate reduction for private employers since 2018 and the twelfth since 2008. It also follows a 10% reduction for Ohio's public employers (cities, counties, schools, etc.) that went into effect Jan. 1.

### **Registration Opens for Virtual Medical & Health Symposium**

Registration is open for the first-ever virtual Ohio Workers' Compensation Medical & Health Symposium April 8–10.

Themed "Comprehensive Care for an Injured Worker," the online free symposium features education tracks for health care practitioners, their staff, and legal professionals. Topics covered include substance use disorders, clinical insights to COVID-19, violence in the workplace, key workers' comp policies and procedures, and the day-to-day operations of workers' comp processes and workflows within a provider's office or health care system.

### **BWC Offers Substance-Use Recovery & Workplace Safety Program**

The Ohio Bureau of Workers' Compensation (BWC), together with local Alcohol Drug Addiction and Mental Health boards, recently created the Substance Use Recovery and Workplace Safety Program (SURWSP), which reimburses employers in 27 participating counties for these services:

- Development and legal review of employer policies and procedures about substance use issues;
- Training for employees to understand substance use and their employer's related policies;

- Training to equip supervisors and managers to better manage employees in recovery; and
- Drug testing for prospective and current employees in recovery.

With annual reports for the BWC's Drug-Free Safety Program (DFSP) due at the end of March, this is a good opportunity for employers in participating counties to be reimbursed for annual DFSP requirements.

## **Safety Issues**

### **OSHA Named New Leaders**

At the U.S. Department of Labor, James Frederick has been named deputy assistant secretary for occupational safety and health, while Joseph Hughes Jr. has been named the new deputy assistant secretary for pandemic and emergency response. Ann Rosenthal has been named senior advisor.

### **OSHA's New Site-Specific Targeting Inspection Plan**

OSHA recently released instructions to implement a new Site-Specific Targeting (SST) inspection plan for non-construction worksites.

In its analysis, OMA Connections Partner Fisher Phillips writes that employers should be vigilant in ensuring that their OSHA 300 logs do not needlessly record non-work-related COVID-19 cases or other non-recordable injuries. Failing to do so needlessly increases an employer's Days Away, Restricted or Transferred Rate (DART Rate), which will eventually lead to an increase in OSHA inspections long after widespread COVID-19 immunity has been reached.

### **OSHA Issues New COVID-19 Workplace Guidance**

In response to an executive order from President Joe Biden, OSHA on Jan. 29 issued stronger workplace guidance to help prevent the spread of the coronavirus. For now, the revised guidance is not a regulation and creates no new legal obligations. It recommends the following steps:

- Conduct a hazard assessment;
- Identify control measures to limit the spread of the virus;
- Adopt policies for employee absences that don't punish workers as a way to encourage potentially infected workers to remain home;
- Ensure that coronavirus policies and procedures are communicated to both English and non-English speaking workers; and
- Implement protections from retaliation for workers who raise coronavirus-related concerns.



**House Insurance Committee**

February 24, 2021

Ohio Bureau of Workers' Compensation

Interim Administrator/CEO John Logue

House Bill 75

Good morning Chairman Brinkman, Vice Chairman Lampton, Ranking Member Miranda, and members of the House Insurance Committee. My name is John Logue, and I am the Interim Administrator and CEO of the Ohio Bureau of Workers' Compensation. I am here today to provide testimony on House Bill 75, which contains BWC's budget for fiscal years 2022 and 2023.

This proposal supports our mission to deliver consistently excellent experiences for each BWC customer every day as we work to prevent, care for, and manage workplace injuries and illnesses at fair rates. It also supports our continued effort to transform BWC into an agile organization driven by customer success. In addition, this proposal reflects our ongoing commitment to supporting economic growth in Ohio through prudent fiscal management and innovative services that create safer workplaces and lower workers' compensation costs for Ohio employers.

As outlined in the attached schedule, funding for fiscal year 2022 is \$353.2 million (or a 13.2% decrease from fiscal year 2021). Funding for fiscal year 2023 is \$361.9 million (or a 2.5% increase from fiscal year 2022). We note these funds are collected from the employer community through their annual premiums and assessments and from transfers from the State Insurance Fund and not from tax collections of the General Revenue Fund.

Ohio's workers' compensation system was founded in 1912. We are one of the largest state-operated providers of workers' compensation insurance in the United States. With assets of approximately \$25 billion (as of Dec. 31, 2020), BWC provides insurance coverage to more than half of Ohio's workforce. (The remaining workers are covered by their self-insured employers.) In fiscal year 2020, we provided workers' compensation insurance coverage to 249,000 employers, approved 71,519 new injury claims, and paid \$1.35 billion in wage loss and medical benefits. We also earned \$1.8 billion in investment income, a 7% return.

This budget will allow BWC to maintain an effective and efficient workers' compensation system that lets businesses focus on growing, preventing workplace injuries, and getting injured workers healthy and back to work. We will do this by:

- **Focusing on workplace safety and prevention** through safety education, training, grant programs, and best practices to help prevent workplace injuries and occupational illnesses.
- **Continuing to innovate and streamline** service offerings to ensure consistently excellent customer service experiences.



- **Keeping costs down for businesses** by having a low and stable rate environment,
- **Partnering with RecoveryOhio** and our local partners to combat the substance use crisis.

Consider our track record over the course of the current biennium. We strengthened our commitment to protecting Ohio’s workers, improving the lives of injured workers, and building BWC into an economic asset for Ohio through several actions. They include:

- At the request of Governor DeWine, BWC issued four dividends over fiscal years 2020-21, totaling \$9.2 Billion, including three in calendar year 2020 aimed at easing COVID-19’s economic impact. For perspective, we bill employers approximately \$1.3 billion annually. We issued dividends of nearly \$8 billion in CY2020 alone. This includes nearly \$1 billion for local government employers, such as schools, cities and counties.

BWC has reduced average rates paid by private and public employers to their lowest levels in decades. Private employers benefited from significant rate cuts instituted by our Board of Directors – a 20% cut in July 2019 (our largest rate reduction in 60 years) and a 13% reduction in July 2020. We reduced public employer rates by 12% in January 2019 along with an additional 10% decrease in both January 2020 and January 2021. This rate level decrease trend is projected to continue into the near future. We prudently lower rates while ensuring stable and predictable workers’ compensation costs for Ohio’s employers.

- Our efforts to reach out to Ohio employers and create a culture of safety are showing results. We’ve seen the number of employers using BWC safety services grow by 70% since 2010. Recent data put Ohio’s injury rate at 2.4 injuries per 100 workers in calendar year 2018. That’s compared to a national average of 3.1 injuries per 100 workers. Ohio’s injury rate is also better than in each of our neighboring states. Meanwhile our claims have fallen steadily – approximately 71,519 new claims (including COVID-19 claims) were allowed in fiscal year 2020, down from 104,000 in fiscal year 2010. The full impact of COVID-19 will likely show up in our FY 21 results – in both claim filings as well as claims filed as COVID-19 related workplace illnesses.
- Our strong financial position allows us to assist Ohio employers, including providing facial coverings for their workers to weaken the spread of COVID-19. As of January 2021, we have distributed over **30 million masks** to employers around the state. To do so, BWC asked the Controlling Board, which approved our request, to provide additional appropriation to our Safety Grant line item. Our goal is 46 million by the end of this fiscal year. We have partnered with companies in Northeast Ohio to manufacture the masks, also creating jobs for Ohioans.
- Our Safety Grant programs continue to provide funding and resources to employers to assist in providing safe workplaces. The Safety Intervention Grants continue to help reduce the frequency of workplace accidents and injuries. We have designed safety grants for specific purposes – **body armor** for law enforcement officers, gear to reduce the possibility of **firefighters** contracting cancer, and security equipment to keep schools safe. We also offer grants to help reduce injuries among individuals who work with people with disabilities. We introduced a **Trench Safety Grant** and trainings to assist Ohio employers in addressing the uptick in fatal and serious trench-related injuries.

- As our agency pivoted to manage the pandemic, we took on a federally funded **Indoor Air Quality program** to mitigate the virus' spread in nursing homes and other facilities serving older Ohioans. The Indoor Air Quality Assistance Program pledges \$28 million to this effort.
- BWC adopted several emergency policy changes to facilitate flexibility and safety when providing medical, vocational rehabilitation, and pharmacology care for Ohio's injured workers. The relevant policy modifications expanding the use of telehealth services maintained a providers' ability to deliver services to injured workers while preventing unnecessary COVID-19 exposure for both parties. These changes are effective until the COVID-19 state of emergency is lifted within the state where the injured worker resides.
- We have taken measures to mitigate the impact of the opioid epidemic on Ohio's labor force and business community. Among our achievements:
  - **We've expanded our Substance Use Recovery and Workplace Safety Program (SUR-WSP) to over 30 counties**, up from just three in early 2019. This program supports employers with workers recovering from addiction by paying for drug screenings, special training, and other programs designed to help all involved successfully navigate the challenges around substance use disorders and recovery in the workplace.
  - **We removed Oxycontin from our formulary**, the drug widely blamed for kickstarting our nation's substance use epidemic. Instead, we're covering alternative painkillers with stronger abuse-deterrent technology.
  - **We've built a first-class pharmacy program** that's the envy of state workers' comp systems, and it's been a driving force in reducing our opioid numbers and the potential abuse or misuse of other dangerous drugs in our system. We accomplished this **while significantly reducing our medication costs**. During FY20, our prescription reimbursement costs totaled \$43.7 million, a decrease of \$18.9 million from FY19. This is the result of fewer injured workers filling a prescription, smaller prescription quantities, increased use of generic drugs, and stronger prescription protocols implemented by our Pharmacy and Therapeutics Committee.

## **Moving Forward**

Our budget request reflects our commitment to continuing this important work and providing consistently excellent experiences to each BWC customer. BWC Management and the BWC Board of Directors have outlined the following goals to ensure BWC is well-positioned for the future.

- **Talent Management**

It is important for BWC to attract, retain, and develop quality employees while offering a vibrant, positive workplace culture that makes BWC an employer-of-choice. With the implementation of our Succession Planning initiative, we are better positioned to retain and grow our top talent and allow them to become our next generation of leaders. Improved recruitment, retention, and succession planning are critical to success in this area.

- **Strong and Stable Finances**

We will manage the financial and enterprise risks associated with our operations by maintaining an adequate net position through smart investment strategies (\$1.8 billion earned in FY20) and prudent fiscal management.

BWC will continue to review the needed income levels and claim reserve balances using actuarial talent and techniques to ensure that we will fulfill our promises to the employers and injured workers in Ohio.

- **Innovation and Technology**

We will continue to increase operational efficiencies and improve the customer experience through innovative technology. Major targeted functions include robotic process automation and enhanced website user experience. We will develop new customer portals, improve our core business system (CoreSuite), update current digital storage and imaging systems, provide new paperless options for employers, and augment our intelligent fraud detection capabilities. The IT Optimization project will remain a focus for BWC. To date, that effort has included migrating its primary servers to the State of Ohio Computer Center (SOCC) and adopting the statewide disaster recovery solution as a part of the IT Optimization effort.

- **Communications and Outreach**

We aim to improve the overall customer satisfaction rating as measured by surveys by at least 10 percent in FY 2022-23 as compared to the previous biennium. In addition, we will transition two of our signature events – the Ohio Safety Congress & Expo and our Medical and Health Symposium into interactive virtual experiences, while still offering CE credits and a forum for vendors to display their newest products and innovations.

- **Safety and Wellness**

We will keep Ohio’s workers safe, healthy, and productive by expanding our innovative safety and wellness programs while reducing the cost of on-the-job injuries and illnesses. We will:

- Create a Center of Excellence to establish a PPE Research and Development Center, focusing on the commercialization of PPE to be manufactured in Ohio. Using Ohio-specific injury and illness data to prioritize efforts in industries with biggest needs and biggest opportunities to improve workforce health and safety.
- Continue through our Ohio Occupational Safety and Health Research Program to provide funding for research projects of up to \$250,000 per project over a duration of 12 to 24 months with Ohio not-for-profit higher education institutions.
- Continue Safety Grant funding at \$35 million in each year of the biennium.
- Develop a Medication Therapy Management (MTM) program to deliver medication therapy management to injured workers with a goal of improving health outcomes and preventing chronic opioid use and opioid misuse.

- **Become a Data Driven Agency**

We will continue to invest in and upgrade our data collection and data warehouse efforts. Improved data along with development and usage of tools to assist in analyzing the data will help BWC gain a better understanding of risks that affect certain industries.

We created a cross-functional innovation team to explore new products, services, processes, and business models to meet the changing needs of Ohio's workforce.

## **Conclusion**

We have reduced rates and returned dividends to Ohio employers of more than \$15 billion over the last decade – this includes at least \$9.2 billion since 2019.

We truly want to be a partner in the economic success of our state and want to do all we can to keep costs as low as possible for our employers, while maintaining the best workers' comp services this country has to offer. Our strong financial position allows us to issue dividends, cut rates, and provide grant opportunities to assist employers with maintaining a safe workplace. We will continue to practice sound fiscal management to ensure we can pay workers' comp claims, provide cost savings to employers, and position BWC as an economic asset to Ohio.

On behalf of BWC, I appreciate your consideration of this budget summary and look forward to further discussions relative to this submission.

Thank you and I am happy to take your questions.

**Mike DeWine, Governor**

Jim Hughes, *Chairman*

Jodie M. Taylor, *Member*

Karen L. Gillmor, Ph.D., *Member*

Tim Adams, *Executive Director*

Ohio House Commerce and Labor Committee

March 3, 2021

House Bill 76

Chairman Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan and members of the Ohio House Commerce and Labor Committee. My name is Jim Hughes and I am the Chairman and Chief Executive Officer of the Ohio Industrial Commission (OIC). Thank you for the opportunity to appear before you today. It is my pleasure to present to you House Bill 76 the Industrial Commission's 2022 and 2023 Biennial Budget Request.

The OIC is responsible for providing a forum for fair and impartial resolutions of disputed workers' compensation claims, including adjudicating claims involving an employer's violation of specific safety requirements, and determining eligibility for permanent total disability benefits. We serve the injured workers and employers of Ohio across a footprint of 12 offices and through an internet portal with a clear mission of customer service.

To provide you with a little background information about the Ohio Industrial Commission, I have included a Fact Sheet regarding the Hearing Process for the Ohio Industrial Commission and a statewide map to show the Ohio Industrial Commission offices throughout the state.

Also, for your convenience, I have provided below the biographies of myself and my fellow commissioners but I will not read them as a part of today's testimony:



**Jim Hughes, Chairman**

**Employee Member**

**Dates of Service: July 2019 - June 2025**

Jim Hughes has spent his career demonstrating his passion for public service.

He was appointed by Governor Mike DeWine to be the chairman and employee member of the Ohio Industrial Commission for a term that began on July 1, 2019.

Jim brings decades of legal knowledge and public policy experience to his role as chairman. He began his career as a bailiff and court constable in the Franklin County Court of Common Pleas. He later served as assistant prosecutor in the City of Columbus Prosecutor's Office and then as assistant prosecutor for Franklin County. He also worked previously as an attorney and partner at the Isaac Wiles law firm in Columbus.



**Mike DeWine, Governor**Jim Hughes, *Chairman*Jodie M. Taylor, *Member*Karen L. Gillmor, Ph.D., *Member*Tim Adams, *Executive Director*

In 2000, he was appointed to the Ohio House of Representatives and was later elected to the Ohio Senate in 2008. During his 18 years in the Ohio General Assembly, Jim supported legislation that toughened criminal penalties, protected children, reformed taxes, streamlined regulations, and incentivized businesses to settle in Ohio. He also served on many legislative committees including Civil Justice, Insurance and Financial Institutions, Energy and Public Utilities, Transportation and Public Safety, and Criminal Justice.

Jim has received numerous accolades from several groups over the course of his career. He has been named Legislator of the Year by the FOP Capitol City Lodge No. 9, the Ohio Fire Chief's Association, the Ohio Nurses Association, the Ohio Association of Professional Firefighters and the AMVETS Department of Ohio. In addition, he has received the Ohio Association for Justice Workers Compensation Outstanding Service Award, and the Watchdog of the Treasury Award, among others.

Jim earned his Juris Doctorate at Capital University Law School after completing his bachelor's degree in business administration at The Ohio State University. He and his wife Susan live in Upper Arlington, and have a daughter, Kaela.



**Jodie M. Taylor**  
**Employer Member**

**Dates of Service: July 2015 – June 2021**

Jodie Taylor brings years of workers' compensation experience to her role as Commissioner of the Industrial Commission of Ohio. In July 2009, Jodie was appointed as the employer member of the Commission. On January 14, 2011, Governor John Kasich appointed Commissioner Taylor as Chairperson of the Commission. Jodie served in this capacity until July 2011. On February 13, 2013, Governor Kasich again appointed Jodie as Chairperson of the Commission. Jodie served in this position until July 2013. In June 2015, Governor Kasich reappointed Jodie to a second term which will end in June 2021.

Her first day on the job was a homecoming for Jodie. From 1997 to 2000, Jodie served as an assistant to an IC Commissioner. In this role, she performed legal and legislative research, assisted during hearings, and gained an extensive understanding of the agency. After leaving the Commission, Jodie served as an attorney for two Columbus law firms, where she represented state-fund and self-insured employers at all levels of IC hearings and in court actions throughout Ohio. She is also a frequent lecturer on workers' compensation issues with extensive legal knowledge in both the private and public sectors.

**Mike DeWine, Governor**Jim Hughes, *Chairman*Jodie M. Taylor, *Member*Karen L. Gillmor, Ph.D., *Member*Tim Adams, *Executive Director*

Jodie earned her bachelor's degree in diplomacy and foreign affairs from Miami University in 1991. While at Miami, Jodie studied overseas in Luxembourg. In 1995, she received her law degree from the University of Akron School of Law. She is an Ohio State Bar Association member and is a board-certified specialist in workers' compensation.

Jodie lives in Dublin with her husband, Michael. In October 2009, they welcomed twins, a boy and a girl, Evan and Elizabeth.

**Karen L. Gillmor, Ph.D.****Public Member****Dates of Service: July 2017 - June 2023**

With over three decades of dedicated public service, Karen brings a tremendous knowledge of workers' compensation issues to the Industrial Commission of Ohio. A native of Ohio, she earned her diploma from Rocky River High School before earning a bachelor's degree with honors from Michigan State University and a master's degree and Ph.D. from The Ohio State University.

Her career shows a passionate interest in the fields of health care, labor relations and workers' compensation.

From 1983 to 1986, Karen served as Chief of Management Planning and Research at the Industrial Commission of Ohio. In this position, she authored a study of self-insurance, which was incorporated into Ohio's omnibus workers' compensation reform law. She also served as the employee representative to the Industrial Commission of Ohio's Regional Board of Review and the Ohio Bureau of Workers' Compensation Oversight Commission. Karen was first appointed to the IC by Governor John Kasich in July 2011 and was appointed to a second term in July 2017.

Before coming to the IC, Karen was elected to Ohio's 26th Senate District seat in 1992, 1996 and 2008. She chaired the Senate Insurance, Commerce and Labor Committee, was a member of the Unemployment Compensation Advisory Committee, and the Labor-Management-Government Committee. She served as vice chair of the State Employment Relations Board from 1997 to 2007 and was a consultant to the United States Secretary of Labor. Nationally, Karen served on the Health Committee of the American Legislative Exchange Council, as well as on the Health and Human Services Committee of the Council of State Governments' Midwestern Region.

Karen was married to United States Congressman Paul Gillmor, who tragically passed away in 2007. They have five children, Linda, Julie, Paul Michael and twins Connor and Adam.



**Mike DeWine, Governor**Jim Hughes, *Chairman*Jodie M. Taylor, *Member*Karen L. Gillmor, Ph.D., *Member*Tim Adams, *Executive Director*

The Ohio Industrial Commission is a state agency with an OBM approved employee ceiling count of 328, which includes the three appointed Commissioners. As of February 10, 2021, 59% of the agency was comprised of female employees and the entire workforce of the agency was comprised of 23% minorities. The Ohio Industrial Commission far exceeded the state minimums for MBE and EDGE as it achieved a Minority Business Enterprise (MBE) Set-Aside rate of 32.4 percent versus the 15 percent statutory threshold in FY 2020. The Encouraging Diversity, Growth and Equality (EDGE) compliance rate is 27.4 percent vs. the 5 percent policy requirement for the same period.

Under the guidance of the Department of Administrative Services, Office of Diversity & Inclusion and in compliance with the Governor's initiative, OIC completed its 2018-2020 Diversity and Inclusion (D&I) Plan, which covered Affirmative Action Planning, as well as compliance in the Equal Employment Opportunity Program and Disability Inclusion Program. In December 2020, OIC met with the Office of Diversity and Inclusion, to review the 2018-2020 plan including the strategies and actionable methods utilized to accomplish its' goals. Based on the review, it was determined that there were no deficiencies and OIC was in full compliance. A final report is forthcoming and will include a letter of compliance from the Office of Diversity and Inclusion. OIC is currently working with the Office of Diversity & Inclusion on developing its' 2021-2023 Diversity, Inclusion and Equity Plan.

Since early 2020, the world has undergone a dramatic transformation. The COVID-19 pandemic has created challenging times for every Ohioan, business enterprise, and State agency. I am proud to lead an agency that has responded to this global pandemic with innovation, dedication and courage. Due to our adaptation and hard-working employees, we have continued to serve Ohio's injured workers and employers in a timely manner. The Ohio Industrial Commission retooled its hearing forum to move from a physical site to a telephonic / laptop platform allowing hearing officers to conduct hearings from their home using OIC resources. These technical and work process innovations have allowed the Industrial Commission to reduce staff by 49.8% through attrition from 643 positions in 1997 to 323 positions at the end of Fiscal Year 2020, without sacrificing the quality of service. In the months since, staffing has fallen to 305 brought on by a surge in retirements.

In keeping with Governor DeWine's directive for cost minimization, the OIC has submitted a flat budget in line with Fiscal Year 2021's appropriation level. Only once in the past 8 bienniums has OIC requested an increase. This enviable record of accomplishment reflects an agency of innovation with a commitment to fiscal prudence, quality, and timeliness.

As a non-GRF agency, the Ohio Industrial Commission is funded solely by an Administrative Cost Fund surcharge applied to the workers' compensation insurance base coverage rate. Prudent fiscal management has enabled the Commission to maintain a stable environment for Administrative Cost rates for our Ohio employer group stakeholders as BWC base rates have been reduced



Mike DeWine, *Governor*Jim Hughes, *Chairman*Jodie M. Taylor, *Member*Karen L. Gillmor, Ph.D., *Member*Tim Adams, *Executive Director*

significantly over the decade. We intend to maintain the optimal rate structure through the end of the next biennial budget period to fund operations and benefit employers.

House Bill 76 has three non GRF line items for your consideration:

**5W30 845321                      \$49,885,128 for operating expenses in each year**

To fund the day to day operations of the Ohio Industrial Commission including but not limited to: employee salaries; benefits; supplies, utilities; Information Technology; rents for the other Ohio Industrial Commission offices throughout the state; contract employee services; etc.

**5W30 845402                      \$1,150,000 for Rent William Green Building in each year**

For rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building

**5W30 845410                      \$3,793,650 each year for the Ohio Industrial Commission's  
payments to the Ohio Attorney General's office**

Traditionally, the Ohio Industrial Commission and the Bureau of Workers' Compensation split the payment to the Attorney General for legal services on an equal basis. As we reviewed the services provided, it was clear that this split did not reflect the actual distribution of the services and fees. In an effort to better reflect the distribution of these legal services, the OIC and BWC agreed to reduce the amount paid by the OIC. We believe the "60/40" split more accurately reflects the actual costs for the services provided.

The proposed budget for FY 2022 at \$54.8m is flat with the current FY 2021 budget. The proposed budget for FY 2023 also remains flat. The combined biennium request remains level at \$109.7 million.

House Bill 76 will allow the Ohio Industrial Commission to continue providing injured workers and employers with a timely, impartial, high quality resolution of their workers' compensation appeals while remaining on a path of fiscal prudence and outstanding service.

Your valuable consideration of our budget request is appreciated. Thank you, Chairman Stein and members of the House Commerce and Labor Committee. I will be happy to take any questions at this time.



### Where the Process Begins

The Ohio Bureau of Workers' Compensation (BWC) administers the collection of premiums from employers and the payment of compensation and medical benefits to injured workers who have been determined to have compensable claims. Some large employers may qualify with the state to be self-insured for workers' compensation and administer their own programs. Self-insured employers bypass the BWC but are still obligated to the Industrial Commission (IC) hearing process.

### About the Commission

The State of Ohio charges the IC with the responsibility of resolving disputes over the payment of compensation and medical benefits in claims filed for work-related injuries and occupational diseases. The IC conducts hearings at its offices throughout Ohio for the convenience of injured workers and employers and makes decisions in all contested workers' compensation claims.

### Hearings Before the Commission

Hearings before the IC are informal in nature and legal representation is not required. However, parties may choose to be represented by an attorney or other authorized person.

The Commission encourages the free exchange of information prior to the hearing, in accordance with Rule 4121-3-09(A)(1)(a) which states, "The parties or their representatives shall provide to each other, as soon as available and prior to hearing, a copy of the evidence which the parties intend to submit at a Commission proceeding."

### The Appeals Process

There are three levels at which a contested claim may be heard within the Industrial Commission.

**District Level** - If a workers' compensation claim is contested, it is set for a hearing before a district hearing officer (DHO). A hearing will be held at the Commission office nearest the injured worker's residence. If either party is dissatisfied with the decision of the DHO, an appeal must be made in writing or online and filed within 14 days of receipt of that decision. The Notice of Appeal should be filed in the Commission office where the hearing took place or by using the IC's website.

**Staff Level** - Appeals from the DHO's decision will result in a second hearing before a staff hearing officer (SHO). The law guarantees injured workers and employers the right to appeal a DHO's decision to the SHO level.

**Commission Level** - If an injured worker or employer is dissatisfied with the decision of an SHO, they may file an appeal to the Commission level. The appeal must be made in writing or online and filed within 14 days of receipt of the decision. The Notice of Appeal should be filed in the office where the hearing took place or by using the IC's website. The three Commissioners may either refuse to hear the appeal or accept it for a hearing.

**Beyond the Commission** - If the injured worker or employer is not satisfied with the decision of the IC Commissioners (or if Commissioners refuse to hear the appeal), they may file a

NOTE: Injured workers, employers, and their authorized representatives may review their active claims information through the Industrial Commission website at [www.ic.ohio.gov](http://www.ic.ohio.gov). Once on the home page of the website, please click ICON and follow the instructions for obtaining a password. Once you have obtained a password, you should be able to access your active claim(s). If you have difficulty obtaining a password, please contact the Industrial Commission's IT Helpdesk at (614) 644.6595 or (877) 218.4810, between 8 a.m. and 5 p.m. weekdays.

If you have a disability that requires special accommodations at a hearing, please contact the IC in advance of your hearing. Interpreter services for language or hearing impairment are available through Customer Service. challenge to the IC decision in the appropriate state court.

Questions About the Hearing Process

**Does every claim require a hearing?**

No. Hearings are held only if there is a dispute between the injured worker, employer, or BWC.

**When will parties be notified of a hearing?**

Notification will be mailed at least 14 days prior to a hearing. The notice will state the time, date, and location of the hearing and the issue(s) in dispute.

**Should the injured worker and employer attend a hearing?**

Attendance is not mandatory, but it is recommended that all parties be present to give their side of the disputed issue(s).

**How should the parties prepare for a hearing?**

Gather and prepare any documents pertinent to the issue set for hearing like current medical reports, written witness statements, etc. These documents should be submitted prior to or at the

hearing (bring original and two date-stamped copies). You should also keep a copy of any paperwork filed with the IC or BWC for your records. After the hearing, an order announcing the decision will be mailed to all parties.

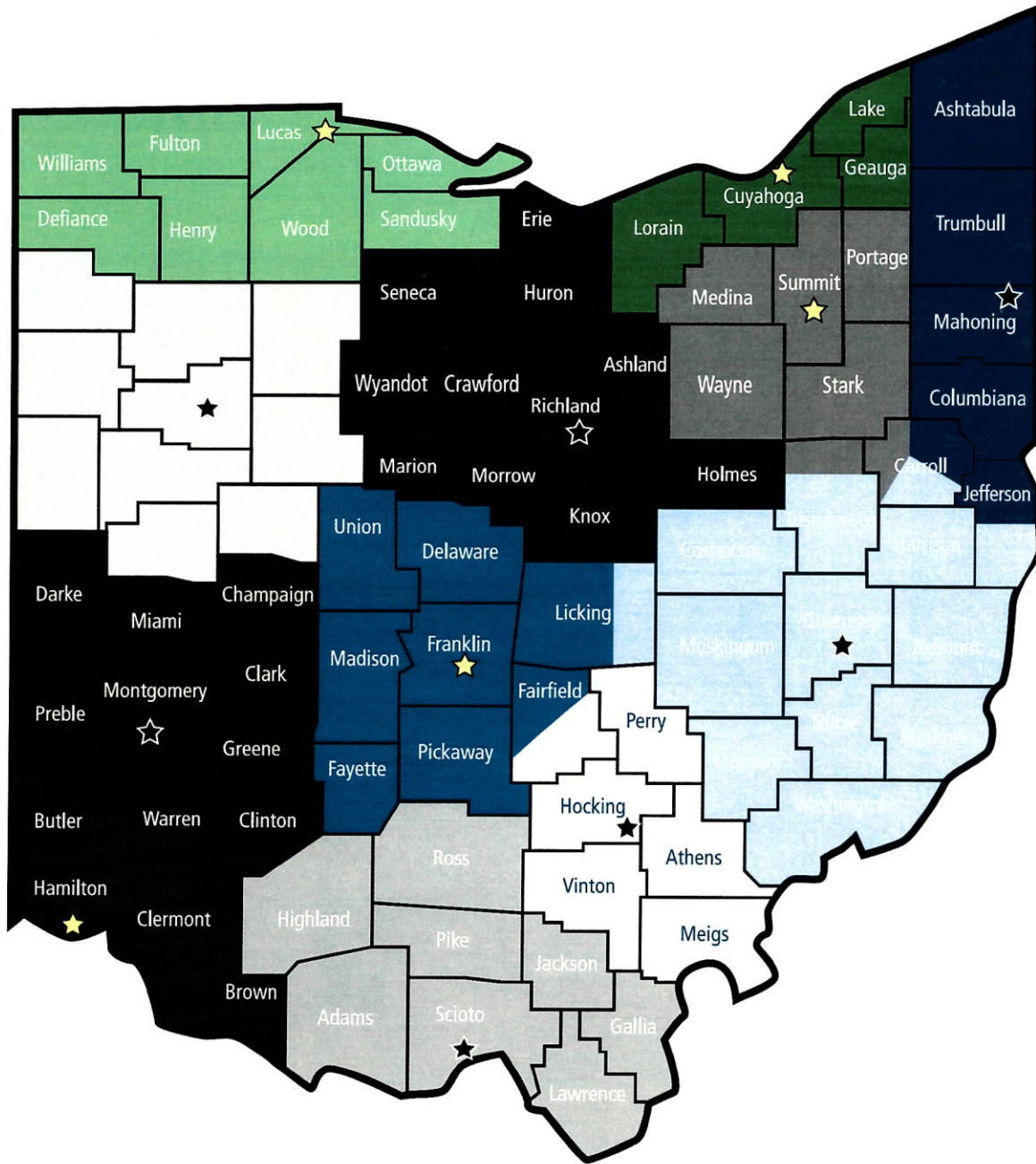
**Is legal representation required?**

Hearings before the IC are informal in nature and legal representation is not required. However, parties may choose to be represented by an attorney or other authorized person.

**How is an appeal filed?**

An employer or injured worker may file an appeal from an order of the BWC, or a district or staff hearing officer of the IC. Form IC-12, located at local offices or on the IC's website, should be used for this purpose. Notices of Appeal should be filed in the office where the hearing took place, or through I.C.O.N., on the IC's website.





### Offices Servicing Each County

- Akron
- Columbus
- Mansfield
- Cambridge
- Dayton
- Portsmouth
- Cincinnati
- Lima
- Toledo
- Cleveland
- Logan
- Youngstown

★ IC District Office Location

☆ IC Regional Office Location

## Safety & Workers' Compensation

### BWC Offers Sample Written Safety Program Templates

March 12, 2021

The BWC's Division of Safety and Hygiene (DSH) has created sample **written safety program templates** for employers to download and customize to their operations. Each template is laid out identically, with information on how to use the template. For free assistance in creating and reviewing workplace safety policies, employers can visit **DSH's website** or call 800-644-6292. 3/8/2021

1

### Declaring a Drug Test Positive: Who Has the Final Say on Medical Marijuana?

March 12, 2021

When it comes to drug testing for marijuana, the proliferation (and variance) of medical marijuana laws has complicated the picture for employers. **This update** from OMA Connections Partner *Working Partners*<sup>®</sup> provides federal testing protocols that are considered best practice for drug testing, as well as a three-step protocol that employers should adopt. 3/11/2021

### BWC Board Votes to Reduce Premiums (Again)

March 5, 2021

ICYMI, the Ohio Bureau of Workers' Compensation (BWC) board has approved a **net 7.1% reduction** in private employer rates and assessments. As a result, employers will pay \$71.5 million less in premiums next policy year, which begins July 1. (The actual premium paid by individual employers depends on several factors, including the expected future claims costs in their industry, recent claims, and participation in various BWC programs.) This marks the fourth consecutive rate reduction for private employers since 2018 and the twelfth since 2008. 3/1/2021

### OMA's Augsburger Appointed to Industrial Commission Nominating Council

March 5, 2021

OMA President Ryan Augsburger has been appointed by Gov. Mike DeWine to Ohio's Industrial Commission Nominating Council. The

council is charged with two separate and distinct functions and objectives: to review candidates for vacancies on the three-member **Industrial Commission** and submit qualified candidates to the governor; and to appoint a chief ombud's officer while annually reviewing the activities of the ombud's office. 3/4/2021

### BWC Getting Employers Ready for Payroll True-up

March 5, 2021

The BWC is preparing to send **this email** to all private employers to encourage them to review their estimated payroll used to calculate their policy year 2020 estimated premium. The notice will include instructions on how to view this information online. With the potential for COVID-19-related fluctuation in actual payroll compared to the amount estimated last year, the BWC wants employers to be prepared for the possibility of a debit or credit billing when they true-up starting in July 2020. 3/5/2021

### Deadline Approaching for BWC's One-Claim, EM Cap Program

March 5, 2021

March 31 is the deadline for employers participating in the BWC's One-Claim Program (OCP) or EM Cap Program to complete required safety training for the July 1, 2020-June 30, 2021 policy year. Employers participating in the OCP can **click here** for more information. EM Cap participants can **click here**. You can register for online training classes **here**. 3/1/2021

### Can Employees Get Workers' Comp Benefits for Injuries While Traveling?

March 5, 2021

In Ohio, the basic rule of workers' compensation is that it covers injuries sustained both in the course of and arising out of an injured worker's employment. But when an employee is injured in transit, the analysis is complicated. OMA Connections Partner Frantz Ward has published **this insight** to examine factors determining whether an employee's travel-related injury has a connection to his/her employment. 3/2/2021

**Strategies for Better Ventilation During COVID-19**  
**February 26, 2021**

The National Occupational Research Manufacturing Sector Council's COVID-19 workgroup has created **this document** to explore current best practices for facility ventilation in manufacturing plants to reduce the risk of COVID-19 transmission. The information is a collection of data, implementation strategies, and testimonials on the use of outdoor air, existing industrial ventilation, and HVAC systems. (Click on the document's numbered titles to view the mentioned sources.) *2/22/2021*

**OSHA Emergency Temporary Standard for COVID-19 Coming Soon?**  
**February 19, 2021**

As we **reported** earlier this month, OSHA has updated its guidance for employers to fight COVID-19 at the workplace. This week, the National Association of Manufacturers (NAM) **reported** that OSHA representatives continue to say they are in the process of determining whether to issue a COVID-19 emergency temporary standard (ETS) by March 15, as authorized by President Joe Biden's Jan. 21 executive action.

Meanwhile, the OMA has learned through its Connection Partner Safex that the American Industrial Hygiene Association (AIHA) believes an ETS is likely to be issued soon to provide "specific, enforceable guidance." In **this update**, the AIHA says that any forthcoming ETS is "likely to pull heavily from existing CDC and OSHA guidance, and related standards and documents in California, Massachusetts, Michigan, Oregon, and Virginia, among others." Be sure to see **OSHA's updated FAQs** related to COVID-19. *2/17/2021*

**Deadline Approaching for Employers That Are Self-Insured for Workers' Comp**  
**February 19, 2021**

Employers that are self-insured for workers' compensation have an important due date coming up. By Monday, March 1, both the semi-annual **assessment** and the Report of Paid Compensation and Case Reserves (**form SI-40**) are due to the BWC. Questions? Contact the

OMA's **Brian Jackson** or your account manager. *2/11/2021*

**Webinar on Demand: Infectious Disease Response**  
**February 19, 2021**

ICYMI, the OMA recently offered a webinar titled: "Infectious Disease Response (COVID-19 and Beyond)." It's **available on demand**, as are **the handouts** that accompanied the presentation. Subject matter expertise was provided by OMA Connections Partner Safex.

Safex has also produced additional resources: **this outline** of a 12-point infectious disease (COVID-19) preparedness plan, and **this guidance** on actions to prepare for increased OSHA enforcement activity during COVID-19. *2/16/2021*

**BWC Offers Substance-Use Recovery and Workplace Safety Program**  
**February 19, 2021**

The Ohio Bureau of Workers' Compensation (BWC), together with local Alcohol Drug Addiction and Mental Health boards, recently created the **Substance Use Recovery and Workplace Safety Program** (SURWSP), which reimburses employers in 27 participating counties for these services:

- Development and legal review of employer policies and procedures about substance use issues;
- Training for employees to understand substance use and their employer's related policies;
- Training to equip supervisors and managers to better manage employees in recovery; and
- Drug testing for prospective and current employees in recovery.

With annual reports for the BWC's Drug-Free Safety Program (DFSP) due at the end of March, this is a good opportunity for employers in participating counties to be reimbursed for annual DFSP requirements. Read more about

the SURWSP in **this summary**, or contact OMA Connections Partner **Working Partners®**. 2/15/2021

### **Are Remote Injuries Compensable Under Ohio Workers' Comp?** February 19, 2021

What happens if one of your employees sustains an injury while working remotely? OMA general counsel Bricker & Eckler has published **this insight** on what qualifies as a remote injury, along with tips for a safe remote work environment. 2/16/2021

### **New Data on Ohio's Occupational Injuries and Illnesses** February 12, 2021

Ohio data from the 2019 Survey of Occupational Injuries and Illnesses (SOII) is **now available**. See the Bureau of Labor Statistics/SOII **2019 data web page** for detailed information. Ohio's rate of workplace injuries and illnesses continues to be lower than the U.S. average — and lower than the rates of bordering states. 2/9/2021

### **Webinar: Reducing COVID-19 Transmission Through HVAC Improvements** February 12, 2021

At 10 a.m. Thursday, Feb. 18, the Ohio Bureau of Workers' Compensation will host a free webinar on reducing COVID-19 transmission through HVAC improvements. This event will provide valuable information to employers interested in taking steps to enhance indoor air quality at their workplaces. **Learn more and register here**. 2/9/2021

### **OSHA Proposes Rule Change on Classification and Labeling of Chemicals** February 12, 2021

OSHA has proposed to update its Hazard Communication Standard to align with the seventh revision of the Globally Harmonized System of Classification and Labeling of Chemicals.

OSHA says the rule is aimed at reducing the incidence of chemical-related occupational illnesses and injuries by further improving the

information on the labels and Safety Data Sheets for hazardous chemicals.

**Read OSHA's full press release**. It includes information on how to submit comments about the proposed rule change. 2/8/2021

### **OSHA Issues New COVID-19 Workplace Guidance** February 5, 2021

In response to an executive order from President Joe Biden, OSHA on Jan. 29 **issued stronger workplace guidance** to help prevent spread of the coronavirus. For now, the revised guidance is not a regulation and creates no new legal obligations. It recommends the following steps:

- Conduct a hazard assessment;
- Identify control measures to limit the spread of the virus.
- Adopt policies for employee absences that don't punish workers as a way to encourage potentially infected workers to remain home;
- Ensure that coronavirus policies and procedures are communicated to both English and non-English speaking workers; and
- Implement protections from retaliation for workers who raise coronavirus-related concerns.

**Click here** to see OSHA's new guidance. Also, read **this insight** from OMA Connections Partner Thompson Hine and **this summary** from OMA Connections Partner Dinsmore. Finally, check out the CDC's updated COVID-19 **guidance for manufacturing workers and employers**. 2/1/2021

**OSHA's New Site-Specific Targeting Inspection Plan**  
**February 5, 2021**

OSHA **recently released** instructions to implement a new Site-Specific Targeting (SST) inspection plan for non-construction worksites. In its **analysis**, OMA Connections Partner Fisher Phillips writes that employers should be vigilant in ensuring that their OSHA 300 logs do not needlessly record non-work-related COVID-19 cases or other non-recordable injuries. Failing to do so needlessly increases an employer's Days Away, Restricted or Transferred Rate (DART Rate), which will eventually lead to an increase in OSHA inspections long after widespread COVID-19 immunity has been reached. *2/2/2021*

**Registration Open for Ohio Safety Congress**  
**February 5, 2021**

Registration is now open for the Ohio Safety Congress & Expo, which will be held online March 10-11. Hosted by the Bureau of Workers' Compensation (BWC), this is the largest regional safety and health conference in the U.S. and will offer a live broadcast of educational sessions and resources that employers can access from anywhere.

**Register now** and sign up for course listings. Anyone interested in workplace safety and health or workers' compensation in Ohio should plan to attend. It's free! *2/1/2021*

**BWC Reports \$7.6 Billion in Net Assets**  
**February 5, 2021**

The Ohio Bureau of Workers' Compensation (BWC) reported total assets at the end of 2020 of just under \$25 billion, with liabilities of \$17.3 billion for a net position of \$7.6 billion, **according to Gongwer News Service**. Meanwhile, BWC Interim Administrator/CEO John Logue told the BWC board last week that the bureau began a new contract with its managed care organizations (MCOs) at the start of the year, effective through 2024. The contract includes a major change, according to *Gongwer*. No longer will the bureau establish a pool of money to pay MCOs on a pro rata basis. Instead, payments will be based on claims — "with some stabilizers designed to keep the rates from having dramatic swings each month." *2/1/2021*

**BWC Offers Accident Analysis Webinar**

**February 5, 2021**

On Tuesday, Feb. 9 — from 10-11 a.m. — the BWC will host a **free webinar** to explain the accident analysis process, while providing an organized approach for identifying and correcting hazards. Attendees will learn about the basic elements of a written accident analysis program, the primary causal factors of accidents, and action steps to analyze accidents. This **webinar is approved** for continuing education and BWC discount program credits. *2/1/2021v*

**You Can Find Ohio-Made PPE Here**  
**February 5, 2021**

The *Cincinnati Enquirer* (subscription) reports that during December 2020 — the deadliest month of the pandemic — roughly 25% of Ohio nursing homes and long-term care facilities reported they had less than one week's supply of personal protective equipment (PPE). Fortunately, the **Ohio Manufacturing Alliance** continues to offer the **Ohio Emergency PPE Makers' Exchange**, which allows buyers to directly contact suppliers of Ohio-made PPE and other safety gear, including N95s. *2/2/2021*

**Did You Post Your OSHA 300A?**  
**February 5, 2021**

Businesses are required to complete and post the OSHA Form 300A Summary of Work-Related Injuries and Illnesses, even if no work-related injuries or illnesses occurred during the reporting year. Each February through April, employers must post this summary of the injuries and illnesses recorded the previous year. If requested, copies of the records must be provided to current and former employees (or their representatives).

If you have 20 or more employees, you must **report the OSHA 300A information electronically** to OSHA by March 2. *2/4/2021*



**BWC Board Expected to Consider Reduction in Premium Rates**  
**January 29, 2021**

At its Jan. 29 meeting, the Ohio BWC Board of Directors is expected to begin the process of again reducing premium rates for private businesses. As stated in **this memo** from the BWC's chief actuary, BWC staff is recommending that the board reduce premium rates by 15%.

The board will consider the recommendation over the next several months. If the reduction is approved, it will take effect July 1. Employers would not see the full 15% reduction due to potential increases in both the BWC and the Industrial Commission administrative funds. Instead, employers would see a reduction of roughly 7%, according to estimates. *1/28/2021*

**OSHA Names New Leaders**  
**January 29, 2021**

At the U.S. Department of Labor, **James Frederick** has been named deputy assistant secretary for occupational safety and health, while **Joseph Hughes Jr.** has been named the new deputy assistant secretary for pandemic and emergency response. **Ann Rosenthal** has been named senior advisor. *1/28/2021*

**Don't Forget About Your Local Safety Council**  
**January 29, 2021**

Ohio Bureau of Workers' Compensation (BWC) continues to sponsor its **statewide network of safety councils**, although it has suspended the premium rebate opportunity and requirements at this time. The councils are operating virtually with 71 of the 84 councils offering monthly programs. Later this spring, the BWC plans to announce program decisions for the 2021 policy year, which starts July 1. Any employer not already a member of a safety council can enroll at any time. *1/26/2021*

manufacturers. Presented by OMA Connections Partner Safex, the event will examine OSHA's recommendations during COVID-19, as well as ideas for future outbreaks. **Click here** for more details or to register. *1/27/2021*

**Biden Order Seeks Stronger Workplace Safety Rules, Tougher OSHA Enforcement**

**January 22, 2021**

Thursday evening, President Joe Biden **issued an executive order** directing federal regulators to implement stronger safety guidance for workplaces during the pandemic.

Among other actions, **the order directs** OSHA to update COVID-19 safety recommendations for businesses within the next two weeks, review its enforcement efforts, and study whether an emergency temporary standard (ETS) — which businesses would have to comply with under the threat of penalties — is necessary. The agency must issue the emergency standard by March 15, if deemed necessary.

The National Association of Manufacturers (NAM) **this week said** it expects OSHA will soon issue an ETS, with penalties for non-compliance being "significant and publicized." *1/21/2021*

**OMA Webinar Will Examine Infectious Disease Response**  
**January 22, 2021**

OSHA recommends that employers prepare an Infectious Disease Preparedness and Response Plan in response to COVID-19. **Register now** for the OMA's Feb. 4 webinar, which will examine OSHA's recommendations. **Click here** for more details on this event, which will be presented by OMA Connections Partner Safex. *1/19/2021*

**Court Says Injured Workers Can't Reject Valid Light-Duty Offers**  
**January 22, 2021**

OMA Connections Partner Dinsmore **has highlighted** a recent court case involving a refused light-duty job offer. In Ohio, a light-duty job offer is a strategic way to either bring an injured worker back to the workforce or bar temporary total compensation (should the injured worker reject a valid offer). Either way, it can aid employers in eliminating, minimizing, and/or stopping temporary total disability compensation from being paid in a claim.

Dinsmore notes that the Tenth District Court of Appeals recently determined the reason for the injured worker's refusal of a light-duty job offer was only relevant if the offer was not made in good faith by the employer. In this case, the Industrial Commission found the employer's

offer was made in good faith; therefore, it would be inappropriate to award temporary total compensation.

While this decision is favorable to employers, it is still important to ensure that light-duty job offers are crafted carefully. For more on this subject, **contact an OMA workers' compensation account manager.** 1/20/2021

### **Ohio Employers Urged to Cash Dividend Checks** **January 15, 2021**

The Ohio Bureau of Workers' Compensation (BWC) **urges employers** to cash the checks BWC mailed in December to mitigate the economic hardship brought by COVID-19. As of Tuesday of this week, 23,351 employers had not yet cashed \$513.7 million in BWC checks, which have a 90-day life. 1/14/2021

### **Amended PTSD Bill Is 'Big Win for Ohio Employers'** **January 15, 2021**

This week, Gov. Mike DeWine signed **House Bill 308**, which creates a fund for the payment of compensation and benefits for first responders suffering from post-traumatic stress disorder (PTSD) — but do not have an accompanying physical injury received in the course of, and arising out of, employment.

The OMA **played a key role** to amend this legislation, helping to avoid a costly expansion of Ohio's employer-funded workers' compensation system.

OMA general counsel Bricker & Eckler **has published this insight** into HB 308 as passed and signed, calling the bill's solution "a big win for Ohio employers" since private employers will not be responsible for paying into the PTSD fund. 1/12/2021

### **OSHA Increases Maximum Penalty Amounts** **January 15, 2021**

OSHA's civil penalty amounts for workplace safety and health violations **are increasing** based on cost-of-living adjustments for 2021. The maximum penalty amount will now be \$13,653 per violation, and \$13,653 per day beyond the abatement deadline. In 2015, Congress directed federal agencies to adjust

their civil monetary penalties for inflation every year. 1/14/2021

### **Ohio's COVID-19 Vaccination Plans: What We Know So Far** **January 8, 2021**

Manufacturers are raising questions regarding Ohio's COVID-19 vaccination distribution plans. Here's what we know to date:

- Ohio is currently in **Phase 1A** of the state's vaccine distribution. This phase is focused on inoculating health care workers and nursing home residents.
- **Phase 1B** — which will include Ohioans ages 65 and older, those with severe medical issues, and staff at K-12 schools — **is expected to begin Jan. 19.** With more than 2 million people in this group, Phase 1B is expected to take several months to complete.
- Based on Ohio's draft plan, Phase 2 will include employees for essential businesses; it is believed this group will contain most manufacturing employees. The OMA has advocated that the Phase 2 definition of "essential businesses" be the same definition used by state officials last spring to keep the vast majority of manufacturers and their suppliers operating. At this time, it's unclear when Phase 2 will begin due to the limited vaccine supplies

OMA members should keep in close contact with their **local health district** officials since they will play a key role in the distribution. Be sure to read the OMA's regularly published COVID-19 updates (emailed to members), and visit the Ohio Department of Health's **vaccination program page**, which includes an FAQ section. If you have specific questions, contact the OMA's **Rob Brundrett**. *1/7/2021*

**BWC's Lineup of Virtual Safety Training and Events**  
**January 8, 2021**

In response to the pandemic, the Ohio Bureau of Workers' Compensation (BWC) has added many virtual safety and employer resources, including safety webinars. A number of previously full-day training courses have been refashioned into shorter virtual events.

Members are encouraged to explore the **BWC's calendar of upcoming events**. BWC also continues to offer its **full line of safety services**, including virtual consultations, safety talks, and written safety program templates. BWC events are offered at no cost to Ohio state-fund employers. Questions regarding BWC's safety services can be **emailed** to the staff. *1/5/2021*

**Report: Fatal Work-Related Injuries See Biggest Jump Since 2007**  
**January 8, 2021**

According to the Bureau of Labor Statistics, fatal work injuries in 2019 (the latest data available) were the **highest they've been since 2007**. Fatalities among workers age 55 and over increased 8% from 1,863 in 2018 to 2,005 in 2019 — the largest number ever recorded for this age group.

**Workers' Compensation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on March 16, 2021**

- HB17**      **WORKERS' COMPENSATION IN FIREFIGHTER CANCER CLAIMS** (PATTON T) Regarding charging workers' compensation experience in firefighter cancer claims.  
**Current Status:** 3/10/2021 - House Insurance, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-17>
- HB75**      **ENACT FY22-23 WORKERS' COMPENSATION BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2021, and ending June 30, 2023, and to provide authorization and conditions for the operation of the Bureau's programs.  
**Current Status:** 3/10/2021 - House Insurance, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-75>
- HB76**      **ENACT FY22-23 INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2021, and ending June 30, 2023, and to provide authorization and conditions for the operation of Commission programs.  
**Current Status:** 3/11/2021 - Re-Referred to Committee  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-76>
- SB66**      **CAREER PATHWAYS APPRENTICE PROGRAM** (WILLIAMS S) To establish a career pathways apprentice program.  
**Current Status:** 3/10/2021 - Senate Workforce and Higher Education, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-66>
- SB69**      **NONCREDIT CAREER-TECHNICAL PROGRAMS** (WILLIAMS S) Regarding noncredit career-technical programs at community colleges and state community colleges.  
**Current Status:** 2/24/2021 - Referred to Committee Senate Workforce and Higher Education  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-69>