

COMPLIANCE BULLETIN



Employer COVID-19 Failures Lead to OSHA Penalties

The Occupational Health and Safety Administration (OSHA) has been citing establishments for [violations related to COVID-19](#). These citations have resulted in more than \$1 million in penalties since the pandemic began.

OSHA announces new enforcement actions weekly. These announcements provide penalty totals and the number of establishments that receive citations. Taken together, these announcements provide insight on how OSHA is enforcing compliance with COVID-19 workplace safety guidelines.

Some common COVID-19 employer citations include failures to:

- ✓ Implement a written respiratory protection program;
- ✓ Provide medical evaluations, respirator fit testing and training on the proper use of a respirator and personal protective equipment;
- ✓ Report an injury, illness or fatality;
- ✓ Record injuries or illnesses on OSHA recordkeeping forms; and
- ✓ Comply with the OSH Act general duty clause.

This Compliance Bulletin provides an overview of commonly cited standards that relate to COVID-19 safety and health, and it highlights corresponding compliance issues identified by OSHA during worksite inspections.

Action Steps

Employers are responsible for providing safe and healthy workplaces for their employees. OSHA's [COVID-19 guidance resources](#) help employers understand and implement necessary safety and health standards within the workplace.

Employers should refer to these resources regularly to avoid violating OSHA standards.

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Enforcement Highlights

- ✓ OSHA continues to monitor and enforce compliance with workplace safety and health standards throughout the COVID-19 pandemic.
- ✓ OSHA has issued citations to more than 112 establishments. Additional citations are reported every week.
- ✓ 27 establishments received citations between Oct. 9 and Oct. 15, 2020. The combined total of proposed citation penalties for these establishments is \$381,388.

OSHA Resources

OSHA's [COVID-19 webpage](#) provides resources to help employers comply with workplace safety and health standards.





Respiratory Protection Program ([RPP](#))

Standard Overview	Compliance Issues
<p>Written Respiratory Protection Program</p> <p>For written RPPs, employers must:</p> <ul style="list-style-type: none"> • Develop a written RPP plan • Select adequate workplace respirators • Conduct medical evaluations for employees required to use respirators • Provide tight-fitting respirators • Ensure the use of respirators in routine and reasonably foreseeable emergency situations • Follow procedures and schedules for cleaning, disinfecting, storing, repairing, discarding and otherwise maintaining respirators • Ensure adequate breathing air quality, quantity and flow for atmosphere-supplying respirators • Provide employee training. The training must cover: <ul style="list-style-type: none"> ○ The respiratory hazards to which employees are potentially exposed during routine and emergency situations ○ The proper use of respirators, including proper equipment use, limitations and maintenance • Regularly evaluate the effectiveness of the program 	<ul style="list-style-type: none"> • Employers are not developing and implementing a written RPP as required by the standard. • Employers are not reviewing the RPP standard (including recent applicable guidance) to ensure their RPPs meet organizational needs and comply with all standard requirements. • Employers are not including employee medical evaluations in their program. • Employers are not following all fit-testing procedures for tight-fitting respirators. • Employers are not regularly evaluating the effectiveness of their RPP program.
<p>Respirator Selection Requirements</p> <ul style="list-style-type: none"> • Employers must select and provide appropriate respirators to their employees. Respirator selection must be based on the respiratory hazards to which employees are exposed and the workplace and user factors that affect respirator performance and reliability. • Selected respirators must be certified by the National Institute for Occupational Safety and Health (NIOSH). 	<ul style="list-style-type: none"> • Employers are not performing (or are performing inadequate) job/task hazard analyses (JHA) for each job/task to identify respiratory workplace hazards. This is leading employers to select inadequate respirators to protect their employees. • Employers are failing to adequately estimate employee exposure to hazards. • Employers are not providing a sufficient variety of appropriate NIOSH-certified respirators. This is causing employees to wear inadequate or ill-fitting respirators.
<p>Medical Evaluations</p> <ul style="list-style-type: none"> • Employers must provide a medical evaluation to determine the employee’s ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. • Before an employee is fit-tested or required to use a respirator, employers must identify a physician to 	<ul style="list-style-type: none"> • Employers are not collecting the information they need on whether employees are able to use the respirator before they are are fit-tested or required to use the respirator in the workplace.

COMPLIANCE BULLETIN



Standard Overview	Compliance Issues
<p>perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as a medical questionnaire. The questionnaire can be found in Part A of Appendix C of the RPP standard.</p> <ul style="list-style-type: none"> Employers must obtain all information to answer Section 1 and Section 2, Question 9 of the questionnaire. These questions do not require a medical examination. Employers can discontinue medical evaluations for any employee who is no longer required to use a respirator. 	<ul style="list-style-type: none"> Employers are not collecting all the information required by Sections 1 and 2 of the questionnaire.
<p>Fit-testing Requirements</p> <ul style="list-style-type: none"> Employers must ensure that employees using tight-fitting facepiece respirators pass an appropriate qualitative or quantitative fit test (QLFT or QNFT). Employers must fit-test tight-fitting facepiece respirators prior to initial use or whenever a different respirator facepiece (size, style, model or make) is required. Annual fit-testing is required thereafter. 	<ul style="list-style-type: none"> Employers are not conducting fit-testing as frequently as required. Employers are using fitting tests not approved by the RPP. Employers are performing RPP-approved tests but are not following the standard's procedures to conduct them. Employers are not requiring employees to use a tight-fitting facepiece respirator that passes an appropriate QLFT or QNFT.

Personal Protective Equipment ([PPE](#))

Standard Overview	Compliance Issues
<ul style="list-style-type: none"> Employers must conduct a workplace hazard assessment and identify any workplace hazards that may require employees to use PPE. Workplace hazards include chemical hazards, radiological hazards and mechanical irritants that can cause injury or impairment in the function of any part of the body through absorption, inhalation or physical contact. Hazard assessments must: <ul style="list-style-type: none"> Include a written certification that identifies the workplace evaluated; Include a certification from the inspector indicating that the evaluation has been performed; and Record the date(s) of the hazard assessment. 	<ul style="list-style-type: none"> Employers are not performing hazard assessments. Employers are not selecting or providing the required PPE for the right hazards. Employers are not requiring employees to use the right type of PPE. Employers are not communicating selection decisions to each affected employee. Employers are not completing employee PPE training.

COMPLIANCE BULLETIN



Standard Overview	Compliance Issues
<ul style="list-style-type: none"> • Employers must select and provide PPE that adequately protects employees from identified workplace hazards. Adequate PPE may include equipment to protect the eyes, face, head and extremities. PPE may also include protective clothing, respiratory devices, shields and barriers. • Employers must communicate PPE selection decisions to each affected employee. • Employers must train employees on: <ul style="list-style-type: none"> ○ Situations and conditions that require PPE; ○ What is approved and necessary PPE; ○ How to properly don, doff, adjust and wear PPE; ○ The limitations of their PPE; and ○ The proper care, maintenance, useful life and disposal of their PPE. 	

Reporting Injuries and Illnesses

Standard Overview	Compliance Issues
<ul style="list-style-type: none"> • OSHA requires employers to report fatalities that occur within 30 days of an exposure to COVID-19 in the workplace. • Fatalities must be reported within eight hours. The eight-hour period begins at the time the employer first learns of the fatality. 	<ul style="list-style-type: none"> • Employers are not reporting COVID-19 fatalities as required by OSHA.

Recording Injuries and Illnesses

Standard Overview	Compliance Issues
<ul style="list-style-type: none"> • Employers subject to OSHA’s recording requirements must keep records of COVID-19 if: <ul style="list-style-type: none"> ○ The case is a confirmed case of COVID-19, as defined by the Centers for Disease Control and Prevention. A confirmed case of COVID-19 means that the individual has yielded at least one respiratory specimen that tested positive for COVID-19; ○ The case is work-related; and ○ The case involves one or more of the general recording criteria. 	<ul style="list-style-type: none"> • Employers are not keeping proper records of work-related cases. • Employers are not recording any new cases of fatalities, injuries or illnesses. • Employers are not meeting the general recording criteria.



General Duty Clause

Standard Overview	Compliance Issues
<ul style="list-style-type: none">• Employers must provide a work environment that are free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to their employees.• This means that OSHA is expecting employers to make reasonable efforts to protect their employees, even if those efforts are not codified in OSHA’s regulations. These reasonable measures may include reasonable hygiene and sanitation procedures and taking other sensible precautions like enforcing social distancing when possible.• OSHA will issue a general duty clause citation only if:<ul style="list-style-type: none">○ The employer failed to provide a hazard free environment (during the pandemic this could be the risk of transmitting or contracting COVID-19);○ The hazard was recognized;○ The hazard causes or is likely to cause serious harm or death; The hazard is correctible.	<ul style="list-style-type: none">• Employers are not providing employees with employment or a place to work that is free from hazards.• To enforce this hazard OSHA may be looking for indications that employers are taking reasonable measures to protect their employees during the pandemic.• Employers are encouraged to review OSHA’s and the CDC’s COVID-19 guidance to learn more about what they can do to protect their workers.