

COVID-19 Control and Prevention FAQs

TOSHA Information and Resources

Q. What does TOSHA expect an employer to do to prevent the spread of COVID-19?

A. TOSHA refers to the current CDC Guidelines as a reference on how employers should protect their employees. For most employers, protecting workers will depend on emphasizing basic infection prevention measures such as:

- Training employees on steps they can take to reduce the spread of COVID-19
 - Employees should wash hands with soap and water for at least 20 seconds
 - Cover mouth and nose with tissue when coughing or sneezing, or use the inside of the elbow
 - Discard of used tissues in the trash and immediately wash hands with soap and water
 - Place posters that encourage hand hygiene to help stop the spread at the entrance to workplaces and in other workplace areas where they are likely to be seen
- Providing alcohol-based hand rubs with at least 60% alcohol at convenient locations throughout the work area
- Cleaning and disinfecting frequently touched objects such as workstations, keyboards, handrails, doorknobs, etc. To disinfect, use products that meet EPA's criteria for use against SARS-CoV-2, the cause of COVID-19, and are appropriate for the surface. Provide disinfectant wipes in near proximity to commonly used surfaces
- Minimizing sharing of tools/equipment when possible
- Allowing employees to wear masks over their nose and mouth to prevent spread of the virus.
- Spacing employees approximately 6 feet or 2 meters apart when possible
 - Temporarily move/reposition workstations
 - When possible have employees telework
 - Stagger shifts to limit number of employees on site
 - Increase physical distance between employees and customers by installing partitions/drive through
 - Provide services remotely (e.g. phone, video, or internet)
 - Utilize curbside pick-up or delivery
- Increasing ventilation rates provided by HVAC system, increase percentage of outdoor air that circulates into the system
- Installing high efficiency air filters

Q. What is TOSHA doing to mitigate exposure of COVID-19 in the workplace?

A. TOSHA has updated its website to include more information, recommendations, and guidance on COVID-19 exposure. "Hazard alert" documents were created for both healthcare and non-healthcare workplaces based on current CDC guidelines; both of which can be acquired on the TOSHA website and downloaded for distribution or posting. In addition, this FAQ document will be posted on the COVID-19 webpage.

Q. Where can employers find information on requirements in reference to COVID-19?

A. Both the OSHA.gov and TNOSHA.gov websites offer information, guidance, and resources for employers and employees on the control and prevention of COVID-19. There are several hazard alerts for different types of workplaces (i.e. construction, manufacturing, warehousing, retail workers, etc.) that employers can use to help. Also, the CDC website provides current guidelines and recommendations to prevent exposure to COVID-19. Guidance documents continue to evolve and employers should check for the latest updates.

Q. Has the state of Tennessee developed any specific COVID-19 employer guidelines for the state?

A. TOSHA has updated its website to include more information, recommendations, and guidance on COVID-19 exposure. TOSHA has developed a webpage, <https://www.tn.gov/workforce/employees/safety-health/tosha.html>, however, it will not present substantially different content from that which is currently available from OSHA.gov or CDC guidance for workplaces.

“Hazard alert” documents were created for both healthcare and non-healthcare workplaces based on current CDC guidelines; both of which can be acquired on the TOSHA website and downloaded for distribution or posting. In addition, there is a FAQ document on the COVID-19 webpage.

TOSHA’s website also links to OSHA’s publication “Guidance on Preparing Workplaces for COVID-19” <https://www.osha.gov/Publications/OSHA3990.pdf> as well as OSHA’s web page on the topic of COVID-19.

It is important to note that state recommendations are merely intended as a resource and do not replace or supersede any TOSHA, CDC, or other regulatory requirements. Guidance documents continue to evolve and employers should check for the latest updates.

Q. TOSHA’s site directs visitors to OSHA’s guidance on workplace COVID preparedness, which states, “This guidance is not a standard or regulation, and it creates no new legal obligations.” Has the Dept. discussed potentially elevating the guidance to an enforce-able regulation?

A. TOSHA continues to monitor the guidance put forth by the Department of Health and Centers for Disease Control and Prevention. If their research indicates current standards are not sufficient to protect life, it remains an option to propose new workplace safety and health regulation.

Q. What does enforcement of the Governor’s Stay at Home order entail in regards to workplaces e.g. the specifics of the complaint/inspection process and current volume of complaints regarding businesses not in compliance; and what if any penalties can be assessed for violations?

A. There have been no changes to the existing workplace safety and health standards. If an employer continues operations, their duty to provide a safe and healthy workplace remains. Complaints continue to be directed to our office. Where the complaint alleges a hazard for which there is an existing standard, TOSHA would take action to evaluate that allegation. Penalties may or may not be assessed but, if recommended, would be issued based on criteria set forth in the FOM.

If the complaint alleges that the employer does not have soap and potable water, TOSHA would likely conduct an inquiry. That is, contact the employer, advise them of the complaint, and have them respond in writing whether or not the hazard exists and if it did, how they corrected it. A copy of that is provided to the complainant if the complainant gave TOSHA accurate contact information.

If the complaint alleges something that is not required, the complainant would be contacted and informed of the standard’s requirements, if they provided contact information.

Q. How should an employer know what changes, if any, to make to the workplace, to protect employees from exposure to COVID-19 and maintain compliance with OSHA standards?

A. Review the OSHA document <https://www.osha.gov/Publications/OSHA3990.pdf> “Guidance on Preparing Workplaces for COVID-19.” It was developed by OSHA to address COVID-19 planning and guidance based on traditional infection prevention and industrial hygiene practices. It focuses on the need for employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so.

The U.S. Department of Health and Human Services’ Centers for Disease Control and Prevention (CDC) provides the latest information about COVID-19 and the global outbreak: <https://www.cdc.gov/coronavirus/2019-ncov/> Both the OSHA.gov and TNOSHA.gov websites offer information, guidance, and resources for employers and employees on the control and prevention of COVID-19. There are several hazard alerts for different types of workplaces (i.e. construction, manufacturing, warehousing, retail workers, etc.) that employers can use to help. Also, the CDC website provides current guidelines and recommendations to prevent exposure to COVID-19. Guidance documents continue to evolve and employers should check for the latest updates.

Contact with COVID-19

Q. Does TOSHA require employers to tell workers that they had - or may have had - contact in the workplace to a COVID-19 positive person?

A. TOSHA has no rule or standard that requires an employer to reveal personal medical information about an employee. TOSHA rules do not prohibit an employer from informing employees that a person infected with a communicable disease may have been in the building. TOSHA has no rule or standard that requires an employer to inform employees if someone in the facility has been positively diagnosed with a communicable disease such as COVID-19. If an employer learns that employees in a facility have been potentially exposed, the CDC recommends cleaning and disinfecting the areas where the employees worked and continue protecting workers by emphasizing basic infection prevention measures.

Q. If an employee tests positive for COVID-19, is the employer required to inform other employees who may or may not have worked around that employee.

A. See answer above

Q. For employers that hire temporary workers, whose responsibility is it to notify the temporary workers about workplace exposure to a COVID-19 positive individual? The employer? The temporary agency?

A. See answer above

Q. Are employers required to disclose cases of COVID-19 at the worksite to employees that may have been exposed? To contractors?

A. TOSHA has no rule or standard that requires an employer to disclose private medical information about an employee who tests positive for COVID-19. If an employer learns that employees in a facility have been potentially exposed, the CDC recommends cleaning and disinfecting the areas where the employees worked and continue protecting workers by emphasizing basic infection prevention measures.

Refusal of Work

Q. Can an employer legally refuse to allow an employee to wear a mask or face covering?

A. TOSHA has no rule or standard that requires an employer to allow employees to wear a mask. However, given the situation we are all facing due to COVID-19, employers are encouraged to permit employees to wear cloth face coverings as this is a recommendation of the CDC and Governor Lee (per Executive Order #30)when social distancing may be difficult. See <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee30.pdf>

Q. Can I refuse to return to work and still maintain my job?

A. TOSHA has no rule or standard that protects an employee who refuses to work due to concerns that COVID-19 may be present in the workplace. Refusal to return to work is not activity protected by TOSHA unless the condition is immediately dangerous to life and death and there is no time to contact the appropriate regulatory agency.

Q. Are employees required to return to work even after the establishment is opened?

A. See answer above

Q. My employer is asking me to come back to work following the reopening phase plan. It will be a different position that is half the pay I was previously making (i.e. bartender to behind a counter selling merchandise). Do I have any rights to file a complaint for these missing funds?

A. Tennessee OSHA does not regulate employee pay issues. Additional information can be obtained by contacting USDOL Wage and Hour Division.

Q. If an employee displays symptoms of COVID-19 can the employer require them to stay home?

A. TOSHA has no rule or standard governing the employer's attendance policy. Where an employee may have an infectious disease, TOSHA encourages the employer to follow CDC guidelines. Additional information on paid sick leave for COVID-19 is addressed in the federal Families First Coronavirus Response Act.

<https://www.dol.gov/agencies/whd/pandemic/ffcr-employee-paid-leave>

Q. Is there a requirement to pay workers who stay home because they are sick? Can employees be fired for refusing to come to work due to being sick?

A. TOSHA has no rule or standard governing the employer's attendance policy or regulation of employee pay issues. Information on paid sick leave due to COVID-19 can be found in the federal Families First Coronavirus Response Act. <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave> Information on wages can be obtained by contacting USDOL Wage and Hour Division <https://www.dol.gov/agencies/whd>. Refusal to return to work is not activity protected by TOSHA unless the condition is immediately dangerous to life and death and there is no time to contact the appropriate regulatory agency.

Q. My employer isn't enforcing social distancing; can I refuse to go to work?

A. Employers are encouraged to comply with the recommendations of OSHA and CDC to the extent the workplace allows. Refusal to return to work is not activity protected by TOSHA unless the condition is immediately dangerous to life and death and there is no time to contact the appropriate regulatory agency.

Q. What if an employee has a 100.4 fever and the employer sends him/her home, will they get paid? How long do they have to stay at home, 14 days?

A. TOSHA encourages employers to following the CDC guidelines for specific self-quarantine instructions. However, TOSHA has no rule or standard that addresses the employer's attendance policy or pay issues. Additional information on wages can be obtained by contacting USDOL Wage and Hour Division <https://www.dol.gov/agencies/whd> and information on paid sick leave due to COVID-19 can be found in the federal Families First Coronavirus Response Act <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>.

Q. An ambulance service employee was exposed to a patient with COVID-19 and didn't realize it until after the fact. The employee got a COVID-19 test. CDC recommends self-quarantining for 14 days. The employer stated that was just a recommendation and told the employee to come back to work until the results are received. Is this legal?

A. TOSHA has no rule or standard that addresses the employer's attendance policy. However, TOSHA does encourage following the CDC guidelines for self-quarantine when exposed to COVID-19. Where an employee may have an infectious disease, the employer should follow current CDC guidelines.

Q. Are employers still required to follow CDC guidelines for COVID-19 during the transition period?

A. TOSHA refers to the current CDC guidelines as a reference on how employers should protect their employees and encourages compliance with those guidelines. It would be good work practice to remind employees of handwashing, where hand sanitizer is located, and ensure they know the company's policy with being ill and returning to work.

Complaints

Q. How are COVID-19 complaints addressed?

A. All complaints will be addressed with a letter to the employer requiring a self-audit and a written response to each complaint item within 5 days. This is the quickest way to get the hazards resolved.

Q. Will TOSHA issue citations for employers who do not comply with the guidelines?

A. While there is no specific TOSHA standard covering COVID-19 exposure, The General Duty Clause does require employers to furnish to each worker "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." In addition, other standards such as:

- The Personal Protective Equipment (PPE) standards require using gloves, eye and face protection, and respiratory protection for certain tasks
- The Sanitation standards require employers provide soap, hot and cold (or tepid) water, and individual towels/air blowers be made available in the workplace. The employer is required to permit employees to utilize toilet facilities as needed. In addition, it requires that all workplaces be kept clean to the extent that the nature of the work allows

Each inspection will be evaluated on a case by case basis.

Recordkeeping

Q. Is a COVID-19 test considered “medical treatment beyond first aid”?

A. Diagnostic procedures are not considered medical treatment.

Q. 29 CFR 1904.7 states: “You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.”

A. This is correct. The employer must record such work related injuries/illnesses and associated required information on the OSHA 300 log. That log is maintained by the employer for 5 years. NOTE for accuracy: 29 CFR 1904 is not applicable in Tennessee; however TDWLD Rule 0800-01-03 is virtually identical.

OSHA’s latest document for guidance on recordkeeping for cases of COVID-19 can be found at <https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Q. When is an employee with COVID-19 a 'recordable' case?

A. COVID-19 is a recordable illness, and employers are responsible for recording cases of COVID-19, if (1) the case is a confirmed case of COVID-19, as defined by Centers for Disease Control and Prevention (CDC); (2) the case is work-related as defined by TDLWD Rule 0800-01-03-.03(3); and (3) the case involves one or more of the general recording criteria set forth in TDLWD Rule 0800-01-03-.03(5).

OSHA’s latest document for guidance on recordkeeping for cases of COVID-19 can be found at

<https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Q. Does a COVID-19 death of an employee need to be reported or recorded on 300 Logs?

A. Under TOSHA’s recordkeeping requirements, COVID-19 is a recordable illness, and employers are responsible for recording cases of COVID-19, if (1) the case is a confirmed case of COVID-19, as defined by Centers for Disease Control and Prevention (CDC); (2) the case is work-related as defined by TDLWD Rule 0800-01-03-.03(3); and (3) the case involves one or more of the general recording criteria set forth in TDLWD Rule 0800-01-03-.03(5).

If all three criteria are met then the COVID-19 fatality is required to be recorded on the 300 logs and reported to TOSHA within 8 hours of the determination.

OSHA’s latest document for guidance on recordkeeping for cases of COVID-19 can be found at

<https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Q. If an employee dies of COVID-19 and likely contracted it from work, should the employer report the fatality to TOSHA?

A. TOSHA regulations require any work-related fatality be reported to the agency within 8 hours of when the employer is made aware. Additional information may be requested to help determine if the death is considered work-related. See above answers also.

Face masks & PPE

Q. If an employer is unable to find N95 masks due to shortages, can employees use surgical masks or cloth face coverings instead?

A. If employees are required to wear N95 filtering face piece respirators as protective equipment while performing certain duties in order to comply with TOSHA standards, they must be provided N95 masks in order to perform those duties.

Surgical masks and cloth face coverings are not considered personal protective equipment but may be an appropriate precaution against COVID-19 in environments where higher-grade masks are not required by a TOSHA standard.

Q. Are employers required to provide face masks to employees to protect against COVID-19 if face masks are not needed to perform their regular job duties?

A. Face masks are not personal protective equipment; therefore, TOSHA cannot require the employer to provide them. However, employers are encouraged to follow CDC recommendations regarding COVID-19 which states that all employees should wear face coverings. The intent of these devices is to limit the spread of aerosolized particles exhaled by the wearer in to the workplace. If respiratory protection, such as an N95 filtering face piece respirator, is required to be worn by employees per a TOSHA standard, it must be provided to the employee by the employer.

Q. Are employees required to wear masks and are employers required to provide them (in a non-healthcare setting)?

A. TOSHA recommends employers follow the most current CDC guidelines, which indicate that all persons in public should wear a face covering. However, the employer is not required to provide face coverings as these are not personal protective equipment.

Q. I experience stress when wearing face masks, but my employer requires them. Can my employer require me to wear a face mask?

A. TOSHA has no rule or standard addressing anxiety experienced by employees relating to conditions in the workplace such as heights, confined spaces, workplace violence, etc. Current CDC guidelines encourage the wearing of surgical masks, cloth face masks, bandannas, etc. to prevent the spread of COVID-19; however, they are not considered personal protective equipment and TOSHA has no rule or standard with regard to wearing these types of face masks.

Healthcare Field

Q. I am an employer in the healthcare field. I have employees that may be exposed to patients or residents that are suspected COVID-19 patients or have tested positive for COVID-19. What additional steps should I take to protect my employees?

A. Employers should assess the hazards to which their workers may be exposed; evaluate the risk of exposure; and select, implement, and ensure workers use controls to prevent exposure. This may be done using OSHA's occupational exposure risk pyramid, which may serve as a guide to employers in this sector.

Until more is known about how COVID-19 spreads, OSHA recommends using a combination of standard precautions, contact precautions, airborne precautions, and eye protection (e.g., goggles, face shields) to protect healthcare workers with exposure to the virus.

Employers of healthcare workers are responsible for following applicable OSHA requirements, including OSHA's Bloodborne Pathogens (29 CFR 1910.1030), Personal Protective Equipment (29 CFR 1910.132), and Respiratory Protection (29 CFR 1910.134) standards. See the Standards page for additional information on OSHA requirements. More information about these, and other issues, is available at the following resources:

OSHA Guidance on preparing workplaces for COVID-19

<https://www.osha.gov/Publications/OSHA3990.pdf>

COVID-19 Standards Page

<https://www.osha.gov/SLTC/covid-19/>

Interim Guidance for Workers and Employers of Workers at Increased Risk of Occupational Exposure (Healthcare)

<https://www.osha.gov/SLTC/covid-19/controlprevention.html#healthcare>

Q. What types of exposure precautions should an employer in the healthcare field implement for suspected COVID-19 patients and patients diagnosed with COVID-19?

A. TOSHA regulations only address employee safety and health. However, an employer can refer to the OSHA document "Guidance on Preparing Workplaces for COVID-19" <https://www.osha.gov/Publications/OSHA3990.pdf> and the National Institutes of Health "COVID-19 Treatment Guidelines" for information and guidance.

<https://covid19treatmentguidelines.nih.gov/overview/management-of-covid-19/>

Most patients with moderate to severe illness will require hospitalization. Hospital infection prevention and control measures include use of personal protective equipment (PPE) for droplet and contact precautions (e.g., masks, face shields, gloves, gowns), including eye protection (e.g., face shields or goggles) and single-patient dedicated medical equipment (e.g., stethoscopes, blood pressure cuffs, thermometers). The number of individuals and providers entering the room of a patient with COVID-19 should be limited. If necessary, confirmed COVID-19 patients may be cohorted in the same room. If available, airborne infection isolation rooms (AIIRs) should be used for patients who will be undergoing any aerosol-generating procedures. During these procedures, all staff should wear N95 respirators or powered, air-purifying respirators (PAPRs) rather than a surgical mask.

Compliance & Abatement

Q. As an employer, I have reviewed OSHA's Occupational Risk Pyramid for COVID-19. I am NOT in the healthcare field and am still unsure whether the exposure my employees experience is a Lower Exposure Risk (Caution) or Medium Exposure Risk. How do I make this distinction?

A. Medium Exposure Risk jobs include those that require frequent and/or close contact with (i.e., within 6 feet of) people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients.

CDC defines close contact as being within about 6 feet of an infected person while not wearing recommended PPE. Close contact also includes instances where there is direct contact with infectious secretions while not wearing recommended PPE. Close contact generally does not include brief interactions, such as walking past a person. A more detailed explanation is available here: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> In areas without ongoing community transmission, workers in this risk group may have frequent contact with travelers who may return from locations with widespread COVID-19 transmission.

In areas where there is ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, some high-volume retail settings).

Lower exposure risk (caution) jobs are those that do not require contact with people known to be, or suspected of being, infected with SARS-CoV-2 nor frequent close contact with (i.e., within 6 feet of) the general public. Workers in this category have minimal occupational contact with the public and other coworkers.

Q. How do employees comply with COVID-19 guidelines that share a work vehicle?

A. TOSHA has no rule or standard that addresses sharing a vehicle. TOSHA recommends employers follow the most current CDC guidelines. Employees who share a work vehicle should disinfect the vehicle after every use. Employees may exchange the key using a no-hand pass technique (by placing the key on a surface where the next employee can pick it up once the other employee has left). Employee should use good work practices by washing their hands, using hand sanitizer, and if they are feeling ill to remain home.

Q. My abatement is due or past due and our facility is still closed or not in operation due to the COVID-19. What can I do?

A. Contact the supervisor listed in your citation packet to discuss an extension request or other options.

For additional information, or to report any safety and health concerns, visit www.tnosh.gov or call 1-800-249-8510.

