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OSHA ISSUES ENFORCEMENT GUIDANCE

The U.S. Occupational Safety and Health Administration (OSHA) has issued an [Interim Enforcement Response Plan](#) for COVID-19 that instructs area and state offices, as well as compliance safety and health officers, on how to prioritize and respond to workplace complaints related to the coronavirus. This enforcement response plan is directed to OSHA personnel; however, it provides useful guidance to employers on OSHA’s enforcement priorities and builds on OSHA’s previously published guidance to employers for responding to and protecting employees from COVID-19 exposure and infection in the workplace.

The Plan reiterates OSHA’s commitment to enforcement for workplace safety and health hazards related to COVID-19, and says that a majority of initial complaints received since the pandemic’s start focused on an employer’s failure to provide personal protective equipment (PPE) or address suspected cases of COVID-19 illness in the workplace. OSHA says that as a general matter, complaints arising outside of healthcare or emergency response employers should be processed as “non-formal” complaints consistent with existing OSHA practice as outlined in OSHA’s [Field Operations Manual](#).

The enforcement response plan urges state OSHA offices and enforcement personnel to prioritize COVID-19-related enforcement with a sensitivity toward the risk posed in any given workplace. Drawing on OSHA’s previously published [Guidance on Preparing Workplaces for COVID-19 \(Guidance\)](#), OSHA describes four categories of occupational risk: (1) very high; (2) high; (3) medium; and (4) low. It appears that manufacturing workers would fall into the medium risk category because those include places where there is frequent and close interaction between people but no known cases of infection.

Under the enforcement response plan guidance, even formal (i.e. written) complaints in medium and low risk categories “will not normally result in an on-site inspection.” For those cases, the “non-formal” procedures set out in the Field Operations Manual will be followed, but if the employer’s response is not adequate, an on-site inspection may follow.

The balance of the guidance deals with instructions to OSHA area offices on how to prepare for and organize site inspections, training, use of PPE by OSHA employees and administrative procedures.