

Environmental Health & Safety

Employers have a duty to provide their employees with a safe workplace free of occupational hazards. For certain workplaces that are more likely to expose employees to infectious diseases, the occupational hazards include potential exposure to COVID-19. These workplaces include hospitals, clinics, nursing facilities, and other places where infected persons are likely to be found or to go for treatment. Although these workplaces already have measures to protect employees from infectious diseases, employers should review those protective measures against the information from the Center of Disease Control (“CDC”) and other authorities to ensure they are ready for COVID-19.

Employers who are not in one of the higher-hazard health care sectors still have a responsibility to provide a safe workplace. Cal/OSHA has provided Interim Guidelines for General Industry on COVID-19, see: <https://www.dir.ca.gov/dosh/coronavirus/General-Industry.html>. This guidance recommends that employers follow the guidelines of the CDC, such as encouraging sick employees to stay home, providing hand sanitizer, and sending employees with respiratory illness home immediately. Federal OSHA notes that there are no OSHA standards applicable to COVID-19 but that the General Duty Clause requires employers to furnish workers with employment free from recognized hazards likely to cause death or serious harm. Federal OSHA also points to the Cal/OSHA guidance as useful. Interestingly, the Federal OSHA website states that COVID-19 is a recordable illness when a worker is infected on the job, despite the fact that the common cold and flu are explicitly exempted from recordkeeping requirements. As it will be difficult to ascertain where a worker is infected, this essentially makes any COVID-19 case a recordable illness.

Finally, as some businesses may be contemplating operating with reduced staffs, it is important to remember that compliance with environmental permits and regulations is not “optional.” Environmental, health and safety requirements should be reviewed to determine which ones must still be carried out in the operating and staffing mode being contemplated.