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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

January 14, 2022

To: Nevada Businesses

Re: Updated COVID-19 Guidance for Nevada Businesses and New OSHA COVID-19 Vaccination and Testing Emergency Temporary Standard

This guidance supersedes previous Nevada Occupational Safety and Health Administration (Nevada OSHA) COVID-19 guidance released on July 30, 2021.

OSHA COVID-19 Vaccination and Testing Emergency Temporary Standard

As a result of the Supreme Court decision on January 13, 2022, Nevada OSHA will not be taking any action regarding the OSHA COVID-19 Vaccination and Emergency Temporary Standard until further notice. This guidance shall be updated as new developments are made available.

Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule

Please note that Nevada OSHA is not responsible for enforcement of the Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule from the Centers for Medicare and Medicaid Services (CMS). On January 13, 2022, the Supreme Court lifted lower court injunctions blocking enforcement of this rule. The guidance at the following link is anticipated to be updated to remove references to non-enforcement in certain states: <https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/guidance-interim-final-rule-medicare-and-medicaid-programs-omnibus-covid-19-health-care-staff-0>.

COVID-19 Healthcare Emergency Temporary Standard

Nevada OSHA adopted the COVID-19 Emergency Temporary Standard for healthcare workplaces effective on July 1, 2021. As of December 23, 2021, this Emergency Temporary Standard is no longer in effect.

Other Nevada OSHA COVID-19 Guidance for Businesses

Nevada OSHA is responsible for enforcing all violations of its guidelines, protocols, and regulations promulgated pursuant to the Governor's Directives and local directives affecting employees. Declaration of Emergency Directives #047 and #048 require all persons in counties with substantial or high community transmission rates to wear a face covering while in public indoor spaces, regardless of vaccination status. In addition, Declaration of Emergency Directives #024, #028, #044, and #045 require Nevada businesses to comply with guidelines promulgated

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by Nevada OSHA to minimize the risk of spread of COVID-19. This document provides more detail on current requirements.

Need Safety Consultation Assistance?

Complying with COVID-19 safety standards can be complex. The Division of Industrial Relations Safety Consultation and Training Section (SCATS) offers free consultations to businesses to help them understand and implement the requirements in order to comply with the health and safety guidance and directives for all businesses, and specific requirements for each industry.

If you have questions about this guidance, please call the Safety Consultation and Training Section at 702-486-9140 (south) or 775-688-3730 (north).

Nevada OSHA COVID-19 guidance is subject to revision. Please check back frequently for updates.

For questions about this guidance related to enforcement, please call Nevada OSHA at 702-486-9020 (south) or 775-688-3700 (north).

Overview of Requirements in Governor’s Emergency Directives

Face Coverings and Personal Protective Equipment:

- All requirements regarding the use of face coverings and personal protective equipment can be more restrictive at the local and county levels but must at least meet the requirements listed in this section. See Declaration of Emergency Directive #041 (as amended by Declaration of Emergency Directive #045).

Counties with Substantial or High Risk of Community Transmission

- In accordance with Declaration of Emergency Directives #047 and #048, all persons in counties with substantial or high community transmission rates will be required to wear face coverings while in public indoor spaces regardless of vaccination status. The Department of Health and Human Services will provide updates weekly every Tuesday to counties and the public informing them of their status.
- All employers shall provide face coverings¹ for employees and shall require employees to wear a face covering in any indoor public setting². (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; and Declaration of Emergency Directive #045.)

Counties with Low to Moderate Risk of Community Transmission

- Face coverings are only required for persons who are not fully vaccinated in counties with low or moderate transmission per CDC guidance, available at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.
- Employers may have mask policies that are more restrictive than the CDC guidance. Employers should assess if face coverings need to be worn by vaccinated employees to prevent the spread of COVID-19. See the Job Hazard Analysis section of this guidance for more information.
 - Examples of situations that may require an assessment for face covering usage, in addition to being vaccinated, include but are not limited to:
 - Employees working in an industry with a higher risk of transmission, such as manufacturing, poultry processing, etc.

¹ Section 4 of Declaration of Emergency Directive #024 states, “For the purposes of this Directive, ‘face covering’ is defined as covering that fully covers a person’s nose and mouth, including without limitation, cloth face masks, surgical masks, towels, scarves, and bandanas.” For employees, Nevada OSHA does not recognize face shields as an alternative to or as an effective “face covering.” The face covering must effectively control the breathing zone and restrain any expelled or exhaled water droplets within the covering.

² Section 2 of Declaration of Emergency Directive #048 defines “indoor public setting” as “any indoor area where people who are not members of the same household may be present. The term includes office buildings, breakrooms, hallways, cafeterias, meeting rooms, and other areas where people may interact, even though the public at large does not have access to the area.”

- Employees working in an industry that has a high volume of public interaction.
 - Employees working at any establishment experiencing a sudden and significant increase in persons testing positive for COVID-19.
 - Employees working in areas with low COVID-19 vaccination rates.
- All employers shall provide face coverings for unvaccinated employees and shall require unvaccinated employees to wear a face covering in any indoor public setting. (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; and Declaration of Emergency Directive #045.)

Requirements for all Counties

- Ensure that any identified first responders in the labor force are provided and use the needed Personal Protective Equipment (PPE) and equipment for protection from communicable or infectious disease. (Required/Ref. 29 CFR 1910.1030.)
- Post signage with the latest CDC mask guidance for vaccinated and unvaccinated employees and customers. (Recommended/Nevada Health Response Press Release 5/13/2021, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2021/05/5.13.21-CDC-Mask-Update.pdf>.)
- All school staff, regardless of vaccination status and community transmission levels, shall be required to wear face coverings while working in an indoor public setting. (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; Declaration of Emergency Directive #045; and Declaration of Emergency Directive #048, Section 5.)

COVID-19 Prevention Plan

Nevada OSHA considers COVID-19 to be a recognized hazard. Nevada OSHA will continue to require all businesses to protect employees from all recognized hazards, which includes COVID-19. Employers shall implement COVID-19 Prevention Programs in the workplace. The most effective programs engage workers and their union or other representatives in the program's development and include the following key elements: conducting a hazard assessment; identifying a combination of measures that limit the spread of COVID-19 in the workplace; adopting measures to ensure that workers who are infected or potentially infected are separated and sent home from the workplace, and implementing protections from retaliation for workers who raise COVID-19 related concerns.

The COVID-19 Prevention Program will be recognized by and added to the Written Safety Program (WSP) required by Nevada Revised Statutes 618.383 and Nevada Administrative Code 618.538 for businesses with more than 10 employees. Businesses with 10 or fewer employees are highly encouraged to have a written COVID-19 Prevention Program.

Job Hazard Analysis:

- For higher-risk workplaces, such as manufacturing, meat and poultry processing, high-volume retail and grocery, and seafood processing, a Job Hazard Analysis (JHA) should be completed for each task or procedure that could be affected by the hazard of COVID-19. Any JHA drafted for this purpose must be equivalent in detail and scope as identified in Federal OSHA publication 3071, available at: <https://www.osha.gov/Publications/osha3071.pdf>.
- A JHA developed for this purpose must identify the task being addressed, the hazard being addressed (spread of COVID-19), and controls to be used to address the hazard.
- Engineering controls, administrative controls, and PPE identified and developed through the JHA to address the hazard must be supplied by the employer.
- Training must be provided to staff for any policy, practice, or protocol that is used to address the hazard via a JHA.
- Training must be provided to staff for any equipment, engineered process, administrative control, or PPE that was identified and developed through the JHA to address the social distancing requirements or alternative policies, practices, or protocols implemented when social distancing is infeasible/impractical.
- When face coverings are required by the Governor's Directives or the Emergency Temporary Standard, a JHA is required in instances where employers recognize that the use of a face covering is either infeasible or creates a greater hazard as a result of a documented medical condition or ADA accommodation. In those instances, the JHA should identify the infeasibility or greater hazard, and articulate specific steps to provide employees with a degree of protection that is at least as effective as the face covering requirement.

Congregation of Employees

- Stagger break times in high-population workplaces, or provide temporary break areas and restrooms to avoid groups of unvaccinated workers congregating during breaks. Unvaccinated workers should maintain at least 6 feet of distance from others at all times, including on breaks. (Recommended/ Ref. Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace | Occupational Safety and Health Administration (osha.gov), available at: <https://www.osha.gov/coronavirus/safework>.)

Sanitation

- Clean surfaces with products containing soap or detergent to reduce germs by removing contaminants and decreasing the risk of infection from surfaces.
 - When no people with confirmed or suspected COVID-19 are known to have been in a space, cleaning once a day is usually enough to sufficiently remove viruses that may be on surfaces and help maintain a healthy facility.
- Disinfect using [U.S. Environmental Protection Agency \(EPA\)'s List N disinfectants](#) to kill any remaining germs on surfaces, which further reduces any risk of spreading infection. Each business needs to evaluate if disinfection is needed in shared spaces when the following conditions exist:
 - High traffic area;
 - High transmission of COVID-19 in the community;
 - Low vaccination rates in the community;
 - Infrequent use of other prevention measures, such as mask-wearing (among unvaccinated people) and hand hygiene; and/or
 - The space is occupied by people at increased risk for severe illness from COVID-19. (Required/Ref. Centers for Disease Control and Prevention, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>.)
- If there has been a sick person or someone who tested positive for COVID-19 in your facility within the last 24 hours, clean and disinfect the spaces they occupied. (Required/Ref. Centers for Disease Control and Prevention, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>.)

Monitoring Health Status of Employees

- Instruct any workers who are infected, unvaccinated workers who have had close contact with someone who tested positive for COVID-19, and all workers with COVID-19 symptoms to stay home from work to prevent or reduce the risk of transmission of the virus that causes COVID-19. Follow the latest CDC guidelines on quarantine and isolation, available at: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>.
- Ensure that absence policies are non-punitive.

- Eliminate or revise policies that encourage workers to come to work sick or when unvaccinated workers have been exposed to COVID-19.
(Recommended/ Ref. Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace | Occupational Safety and Health Administration (osha.gov), available at: <https://www.osha.gov/coronavirus/safework>.)

Further, any guidance, protocol, plan, or regulation that is produced by the State of Nevada or a local government, if more restrictive, shall be enforced by Nevada OSHA per Section 7 of Declaration of Emergency #044. Following these guidelines does not constitute, and is not a substitute for, compliance with all laws and regulations applicable at any particular time. Individuals and businesses are responsible for ensuring that they comply with all laws and regulations that apply to them, including, but not limited to, federal and state health and safety requirements. Additionally, compliance with this guidance does not ensure prevention of spread of infections from COVID-19 or any other cause.

Additional Resources

For further guidance, please see the following links:

- Federal OSHA COVID–19 Prevention Program resources
 - <https://www.osha.gov/coronavirus/safework>
 - <https://www.osha.gov/coronavirus/guidance/industry>
- Centers for Disease Control and Prevention
 - <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>
- State of Nevada- <https://nvhealthresponse.nv.gov/>
- Mine Safety and Health Administration: <https://www.msha.gov/coronavirus>
- Nevada OSHA Information: <http://dir.nv.gov/OSHA/Home/>