

CORONAVIRUS 2019 (COVID-19) FREQUENTLY ASKED QUESTIONS¹

1. Are businesses required to take action in response to COVID-19?

Yes, OSHA (29 U.S.C. 654(a)(1)) requires businesses to provide a workplace “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” Several states require additional work safety regulations. What specific actions satisfy the requirement depends on the business operation, exposure risk, location, employees, etc.

2. Can businesses take employees’ temperature before starting work?

It depends. Generally, no because taking the temperature of an employee is a prohibited medical examination under the Americans with Disabilities Act. In April 2020, the CDC published new recommendations for critical workers, which permits taking the temperature of a critical worker who was potentially exposed to COVID-19 in the last 48 hours, and the worker is asymptomatic. Employers should review CDC policies for guidance and specific jobs, locations, and regions where it is recommended or required.

3. Can businesses require an employee to stay home from work?

A business may require that an employee stay home or take leave on the basis of a reasonable belief that an employee was exposed to COVID-19. It is recommended a lawyer should be consulted before this step is taken to avoid a violation of the Americans with Disabilities Act.

4. Can personal protective equipment help?

Yes, the CDC and OSHA recommend the use of personal protective equipment based on exposure risk. More information on the use of personal protective equipment is available in *Guidance on Preparing Workplaces for COVID-19* in the **RESOURCES** Section.

5. If an employee is exposed to or diagnosed with COVID-19, how can a business respond?

A business cannot violate an employee’s medical privacy; however, a business should inform other employees of possible exposure without identifying the source.

6. If an employee is exposed to or diagnosed with COVID-19, who should a business inform?

¹ This document is provided solely for informational purposes based on the recommendations of the Occupational Safety and Health Administration (OSHA), the Center for Disease Control and Prevention (CDC), and other government agencies engaging in response to COVID-19. It is not to be construed as legal advice or legal guidance. NPGA expressly disclaims any liability associated with the accuracy or content of the information contained in this document. Users should consult the government resources for the most complete and current information pertaining to COVID-19 or contact an attorney for any specific advice.

According to OSHA regulations, COVID-19 is a recordable illness when an employee is infected on the job. OSHA requires employers to record and report illnesses under [29 C.F.R. 1904.5](#). More information is available in the **RESOURCES** Section. Additionally, a business should contact the local health department if an employee is diagnosed with COVID-19.

7. If an employee is exposed to or diagnosed with COVID-19, when can an employee return to work after home isolation?

The CDC and OSHA recommend that an individual consult a healthcare professional prior to returning to work. A business may require that an employee provide documentation from a healthcare professional as to the employee's health status. A business should consult state laws that may set standards for requesting documentation.

8. If an employee practices home isolation, must a business provide paid leave?

It depends on several factors including:

- the exempt or nonexempt status of an employee;
- if an employee has available sick or paid leave; and
- if the employee qualifies for the Family and Medical Leave (FMLA). The Department of Labor has not offered guidance as to whether COVID-19 qualifies for FMLA; however, several symptoms and subsequent conditions of COVID-19 currently qualify for FMLA.

9. Can businesses refuse to serve customers who are exposed to or diagnosed with COVID-19?

Businesses should consult a lawyer before limiting service to customers. Businesses are required to provide employees with a workplace free from recognized hazards. However, a business must avoid violating discrimination laws and customer contracts.

10. Does a Declaration of Emergency by a state governor or federal agency change workplace regulations?

A declaration of emergency waives transportation hours of service regulations to provide relief to the emergency. An emergency declaration does not otherwise impact workplace regulations unless specifically stated in the document

11. Does propane transportation fall under state or FMCSA emergency declarations waiving hours of service requirements?

Possibly, it depends on whether the propane transportation is directly assisting emergency relief efforts. Regardless of whether propane is specifically mentioned in the state or FMCSA declaration, a motor carrier and driver can utilize the waiver if the transportation provides relief for the emergency. For example, bobtail deliveries to nursing homes, medical offices, or autogas for police fleets are directly assisting relief efforts or those impacted by the emergency.

12. What is price gouging?

Price gouging refers to when a seller increases the sale price of goods, services or commodities to a level that is “unconscionable” or “excessive”. Price gouging is against the law in all fifty states. Price gouging laws are usually raised following a state of emergency declaration by a Governor or the President.

RESOURCES

- *What you need to know about coronavirus disease 2019 (covid-19)*, Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf>
- *COVID-19 Situation Summary*, Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>
- *What to do if you are sick with coronavirus disease 2019 (COVID-19)*, Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/sick-with-2019-nCoV-fact-sheet.pdf>
- *Interim Guidance for Businesses and Employers*, Centers for Disease Control and Prevention: https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fguidance-business-response.html
- *Interim Guidance for Event Planners*, Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>
- *Implementing Home Care*, Centers for Disease Control and Prevention: https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-home-care.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fguidance-home-care.html
- *COVID-19 Overview*, Occupational Safety and Health Administration: <https://www.osha.gov/SLTC/covid-19/>
- *COVID-19 Standards*, Occupational Safety and Health Administration: <https://www.osha.gov/SLTC/covid-19/standards.html>
- *Guidance on Preparing Workplaces for COVID-19*, Department of Labor and Department of Health and Human Services: <https://www.osha.gov/Publications/OSHA3990.pdf>
- *Guidelines for Safety and Health Programs*, Occupational Safety and Health Administration: <https://www.osha.gov/Publications/OSHA3885.pdf>
- *Coronavirus Hub*, Department of Energy: <https://www.energy.gov/coronavirus-hub>
- *COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs*, Internal Revenue Service: https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#how_to_claim