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Return to Work: Answers for Pressing Environmental, Health & Safety Questions

Q: As I reopen my business, has COVID-19 impacted my business's environmental, health and safety responsibilities?

A: Yes, COVID-19 has had a significant impact on companies' environmental, health and safety obligations, including requiring consideration of changes to cleaning, disinfection and waste disposal policies and procedures, purchase and training of new personal protective equipment, implementation of social distancing requirements, new environmental compliance monitoring and reporting requirements, etc.

Q: What cleaning supplies should I use to disinfect surfaces with COVID-19?

A: Under current guidance from OSHA and the CDC, disinfection should be done with EPA-approved disinfectants for each type of surface that requires disinfection. You should follow the label instructions, including taking appropriate precautions when applying the product, as well as wearing gloves and ensuring you have good ventilation during use of the product. It is important that you train employees on the proper use and application of disinfectants.

Q: What areas should be prioritized for disinfection?

A: You should routinely clean and disinfect all areas, paying particular attention to frequently used surfaces such as doorknobs, handles, handrails, counters, tables, light switches, faucets, sinks, and electronics. Some areas, including commonly touched surfaces, may need to be cleaned several times per day based on the amount of use. You need to be prepared to demonstrate your cleaning measures, including when you cleaned, what you cleaned, what you used to clean, and who cleaned different areas within your facility. If possible, consider identifying one employee who is responsible for continually monitoring the facilities and cleaning commonly touched surfaces and high traffic areas at regular intervals throughout the day.



Q: Should my company require employees to wear face coverings?

A: Current OSHA and CDC [guidance](#) for manufacturing and industrial facilities recommends workers wear face coverings as a protective measure in addition to social distancing. Face coverings are especially important when social distancing is neither possible nor feasible based on working conditions. Cloth face coverings are not personal protective equipment (PPE) and are not appropriate substitutes for PPE such as N95 respirators or medical facemasks in workplaces where such equipment is recommended or required to protect the wearer. Also, because wearing a single cloth face covering for the duration of a work shift in a manufacturing facility may not be practical (it could become wet, soiled, or otherwise contaminated), the OSHA/CDC guidance states employers should provide readily available clean cloth face coverings (or disposable face masks) for workers to use.

Q: How should I dispose of used PPE and cleaning supplies? Are used cleaning supplies considered hazardous waste?

A: You should [train](#) employees on the [proper disposal](#) of PPE and cleaning supplies, paying particular attention to the disinfectant's label and Safety Data Sheets to determine whether used supplies are considered hazardous waste. Used PPE generally is not considered hazardous waste. Wipes and other used cleaning supplies are considered hazardous waste if indicated on the Safety Data Sheet or if they fall under OSHA standards governing regulated waste.

Q: Do I need to monitor indoor air quality or sample indoor air for SARS-Cov-2, the virus that causes COVID-19?

A: There are no current requirements that companies test indoor air for SARS-Cov-2. Recent [guidance](#) from the CDC encourages employers to consider improving engineering controls using the building ventilation system, including increasing ventilation rates, increasing outdoor air ventilation, disabling demand-controlled ventilation, further opening minimum outdoor air dampers (as high as 100%) to reduce or eliminate recirculation, improving central air filtration to the MERV-13 or the highest compatible with the filter rack, and keeping systems running longer hours (24/7 if possible) to enhance air exchanges in the facility.

Q: If one of my workers tests positive for COVID-19, do I have to notify the EPA?

A: No. There is no requirement that employers notify the EPA if their workers test positive for COVID-19. However, employers may be required to record and report COVID-19 related illnesses to OSHA or the related state agency if it is determined they are work-related.

Q: What do I do if my company is a regulated entity and we cannot complete routine compliance monitoring, testing, sampling, laboratory analysis, training, or reporting required by my permit or existing regulations?

A: The EPA has acknowledged the COVID-19 pandemic may constrain the ability of regulated entities to perform routine compliance monitoring, testing, and reporting. According to the [EPA's temporary policy](#), entities should use existing procedures to report noncompliance with routine activities required by permits, regulations, or statutes. If no such procedure is applicable, or if reporting is not reasonably practicable due to COVID-19, the EPA instructs regulated entities to maintain this information internally and make it available upon request. As explained in the guidance, the EPA does not expect to seek penalties for violations of routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification obligations in situations where the EPA agrees COVID-19 was the cause of the noncompliance and the entity provides supporting documentation to the EPA upon request. You should also review relevant state regulatory agency requirements for managing COVID-19 related compliance concerns.



Q: What if I cannot comply with a requirement in a consent order or settlement agreement with the EPA due to COVID-19?

A: If, as a result of COVID-19, parties to administrative settlement agreements anticipate missing enforceable milestones in those documents, parties should utilize the notice procedures set forth in the agreement, including notification of a force majeure event. The notification should provide the information required by the agreement, which typically will include steps taken to minimize the effects and duration of any noncompliance caused by COVID-19, as well as the documentation of reasonable actions specified above. The EPA staff will review these notifications and may contact a party to seek adjustments to a proposed plan of action, pursuant to the agreement. If the DOJ is a party to the consent decree, the EPA has stated it will coordinate with DOJ to exercise enforcement discretion regarding stipulated penalties for routine compliance obligations.

Q: What if COVID-19 has created a risk or imminent threat to health and environment at my company?

A: Regardless of COVID-19, all companies must continue to manage and operate their facilities in a manner that is safe and protects the public and the environment. Facilities should contact the appropriate implementing authority (EPA region, authorized state, or tribe) if facility operations impacted by the COVID-19 pandemic may create an acute risk or imminent threat to human health or the environment. If an entity contacts the EPA due to noncompliance that could result in an acute risk or an imminent threat to human health or the environment, the EPA's first step will be to consult with the implementing authority to take measures to minimize or prevent the acute or imminent threat to health or the environment from the noncompliance caused by COVID-19.

Q: What if my company generates hazardous waste at its facility, and as a result of COVID-19, our hazardous waste contractor is delayed in removing waste from our facility?

A: If a facility is a generator of hazardous waste and, due to disruptions caused by the COVID-19 pandemic, is unable to transfer the waste off-site within the time periods required under RCRA to maintain its generator status, the facility should continue to properly label and store such waste and document the information discussed in the EPA's temporary policy. If these steps are met, as an exercise of enforcement discretion, the EPA will treat such entities to be hazardous waste generators, and not treatment, storage, and disposal facilities. In addition, as an exercise of enforcement discretion, the EPA will treat Very Small Quantity Generators and Small Quantity Generators as retaining that status, even if the amount of hazardous waste stored on site exceeds a regulatory volume threshold due to the generator's inability to arrange for shipping of hazardous waste off of the generator's site caused by the COVID-19 pandemic. State agency COVID-19 policies should be reviewed to identify any additional requirements.

Q: As a company developing and managing real estate, we regularly complete Phase I environmental site assessments on future purchases or future leased premises. How does COVID-19 affect Phase I environmental site assessments?

A: Under the ASTM 1527 standard, the scope for conducting a Phase I environmental site assessment is aimed at identifying potential soil and groundwater conditions that would constitute a "recognized environmental condition" at the properties which could trigger liability under the Comprehensive Environmental Response, Compensation and Liability Act, known as CERCLA. Under the current standard, a "recognized environmental condition" would not include mold, viruses, asbestos, and other building conditions. However, many users expand the required ASTM scope and require their consultants to identify other environmental conditions such as asbestos, wetlands, and operational issues during the assessment process. Accordingly, the standard Phase I environmental site assessment standard would not include an assessment or review of past or present conditions involving COVID-19. A user could require its consultants to review whether a property was the site of prior COVID-19 events.



As for completing a Phase I, the extensive stay-at-home orders, access restrictions, and the uncertainties associated with property inspections may make it difficult for consultants to inspect any structures within the scope of the Phase I report. However, the ASTM standard provides that the environmental professional completing the Phase I must make a “good faith effort” to inspect the site. If direct access is unavailable, the standard provides the environmental professional may visually inspect by another method (e.g., using drones, video cameras, etc.), document why attempts to inspect were unsuccessful, and document other sources which may indicate releases occurred or did not occur at the properties.

Q: Several years ago, our company purchased a specific “environmental insurance policy,” called a “pollution legal liability policy,” to cover our real estate properties. Is COVID-19 covered by those policies?

A: It depends on the specific policy language and any exclusions to the policies, along with any endorsements, or amendments, to the policy. Often environmental insurance policies cover damages associated only with soil and groundwater conditions, and they frequently include exclusions for mold and other unique conditions. Yet other specialized environmental insurance policies may include coverage for mold, legionella, viruses and other conditions, assuming the other requirements of the policies are met. For example, certain health care facilities may have very specific environmental insurance policies which cover bacteria or viruses but may be limited to cleanup or disinfection costs associated with remediation of these conditions. Again, the specific language of the policy will determine the coverage provided.

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