SUBJECT: Coronavirus Disease 2019 (COVID-19) – Interim Enforcement Plan

I. Purpose. This instruction establishes policies and procedures for investigating hazards related to coronavirus (SARS-CoV-2 virus) and coronavirus disease 2019 (COVID-19).

II. Scope. This instruction applies to the General Industry Safety and Health Division (GISHD) and the Construction Safety and Health Division (CSHD).

III. References.

A. Agency Instruction MIOSHA-COM-20-1, Companion and Expanded Inspections, as amended.


C. Agency Instruction MIOSHA-COM-20-4, COVID-19 in Bars, Restaurants, Gas Stations, Grocery and Convenience Stores, and Other Retail – State Emphasis Program (SEP), as amended.

D. Agency Instruction MIOSHA-SHMS-20-1, COVID-19 Preparedness and Response Plan for MIOSHA Staff, as amended.

E. General Industry Safety and Health Standard Part 33, R 408.13301 et seq., Personal Protective Equipment.


J. MIOSHA Field Operations Manual (FOM), as amended.

K. MIOSHA Safety and Health Standard Part 11, R 408.22101 et seq., Recording and Reporting of Occupational Injuries and Illnesses.

L. Occupational Health Standards Part 451, R 325.60051 et seq., Respiratory Protection.

M. Occupational Safety and Health Administration (OSHA), Guidance on Preparing Workplaces for COVID-19.


W. OSHA Enforcement Memos, webpage, as amended.

X. US Centers for Disease Control and Prevention (CDC), Coronavirus Disease 2019 (COVID-19), as amended.

IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; MIOSHA Messenger; and Internet Accessible.

V. Next Review Date. This instruction will be reviewed three months from date of issuance.

VI. History. History of previous versions includes:

- MIOSHA-COM-20-2, June 17, 2020
- MIOSHA-COM-20-1, April 15, 2020

VII. Contact. Adrian Z. Roescay, Director, GISHD and Lawrence Hidalgo, Jr., Director, CSHD.

VIII. Originator. Barton G. Pickelman, Director

IX. Background. Since March 2020, employers in Michigan have reported 30 worker deaths from COVID-19 and 127 in-patient hospitalizations for COVID-19 potentially linked to workplace exposure to SARS-CoV-2. MIOSHA’s enforcement divisions have been
inundated with requests for enforcement action against employers who are not protecting their employees. GISHD has received over 3,800 complaints from employees alleging uncontrolled COVID-19 hazards in the workplace and 263 referrals from local government, including local health departments, indicating that businesses were not taking all the necessary measures to protect their employees from SARS-CoV-2 infection. The number of complaints and referrals that the agency received from mid-March 2020 until mid-October 2020 was more than triple the number during the same period in 2019, before the pandemic. The aim of this interim enforcement plan is to simultaneously protect the health of Michigan workers, effectively deal with large numbers of COVID-19 complaints and referrals, quickly address health hazards, and protect the health of MIOSHA compliance officers who can be exposed when they do on-site inspections.

As the COVID-19 case rate in the state fluctuates and the response from employers, employees, and the government evolves, MIOSHA regularly revises its COVID-19 policies and procedures. This instruction collects and summarizes the policy and procedural changes since the last revision of this instruction.

X. Significant Changes.

A. Removed references to Governor’s Executive Orders.

B. Realigned enforcement policy to MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19).

C. Updated Reference section.

D. Updated Background section.

E. Added section on scope of on-site inspections and which would include COVID-19.

F. Added section on when a companion inspection would be opened for COVID-19.

G. Added section on what divisions will handle the COVID-19 assignments and when industrial hygienists (IHs) versus safety officers (SOs) will conduct the enforcement activities.

H. Added requirement on COVID-19 fatality investigations for compliance officer to examine employer’s compliance with regulatory requirements at the time of the victim’s potential exposure to coronavirus.

I. Added requirement on COVID-19 fatality investigations for compliance officer to examine employer’s current compliance with regulatory requirements and to collect information on control measures currently in place.

J. Added procedure for handling COVID-19 referrals from local government.

K. Revised procedure for investigating COVID-19 inpatient hospitalizations.

L. Added instructions for support staff on when referral would receive an Unprogrammed Activity (UPA) number and inspection number in the OSHA Information System (OIS).
M. Added referrals to COVID-19 D letter procedure.
N. Added section (reintroduced option) for COVID-19 recommendation letters.
O. Changed the criteria for closure of D letters (i.e., closure of the complaint or referral upon which the D letter was based) to employer’s compliance with Emergency Rules for Coronavirus Disease 2019 (COVID-19).
P. Added section for benchmark of compliance.
Q. Added ADM Part 11, Recording and Reporting of Occupational Injuries and Illnesses to the list of MIO SHA standards that fall within the benchmark for compliance and that can be cited.
R. Updated the list of OSHA enforcement memos.
S. Added policy for citing Emergency Rules for Coronavirus Disease 2019 (COVID-19).
T. Revised policy for issuing general duty clause citations.
U. Added section for programmed inspections.
V. Added Appendix A with templates for COVID-19 recommendation letters.
W. Revised templates for COVID-19 D letters in Appendix B.
X. Revised examples of general duty clause citations in Appendix C.
Y. Updated list of CDC guidance documents for COVID-19 for employers in Appendix D

XI. Scope of On-Site Inspections.
A. The SO/IH will address COVID-19 on all on-site inspections.
B. On unprogrammed activities for COVID-19 (i.e., COVID-19 fatalities, COVID-19 complaints, and COVID-19 referrals), COVID-19 is addressed because COVID-19 is an alleged hazard.
C. On comprehensive programmed inspections, COVID-19 is examined because a comprehensive inspection covers all potential hazards.
D. COVID-19 is addressed on all other types of inspections. These inspections would be programmed partial inspections and unprogrammed partial inspections not related to COVID-19, such as non-COVID-19 complaint inspections, non-COVID-19 reinspections, and non-COVID-19 follow-up inspections. COVID-19 would be covered because the hazard is in plain view, and the MIO SHA FOM requires the scope of a partial inspection to be expanded to address any potentially serious hazard in plain view or discovered by the SO/IH during the inspection process. For instance, employees or customers will be wearing face coverings or masks, or posted signs will ask sick individuals to not enter, or the signs will require health screening or face coverings.
XII. Companion Inspections.

A. For non-COVID-19 inspections, the compliance officer will use the policy in Agency Instruction, MIOSHA-COM-20-1, Companion and Expanded Inspections to determine whether COVID-19 will be covered under the original inspection number or in a companion inspection.

B. The scope of a non-COVID-19 complaint or referral inspection can be expanded to include one or two simple COVID-19 hazards identified by an SO/IH not listed as a complaint or referral item. If the COVID-19 hazards number more than two, or if they involve a complex issue, the additional hazards should be addressed under a companion inspection.

C. For example, if the only COVID-19 hazards that the SO/IH identifies are serious hazards related to lack of face coverings and social distancing, these hazards should be addressed under the original inspection number. On the other hand, if there are numerous serious violations of the Emergency Rules for Coronavirus Disease 2019 (COVID-19), the hazards will be addressed in a companion inspection.

XIII. Field Staff Assignments.

A. COVID-19 enforcement activities will typically be performed by IHs. IHs in GISHD will cover COVID-19 for general industry. IHs in CSHD will cover COVID-19 for construction.

B. In the event of a high volume of COVID-19 complaints or referrals in general industry, general industry COVID-19 assignments can be given to SOs in GISHD and to field staff in CSHD. In this situation, GISHD IHs will usually retain the COVID-19 on-site inspections and COVID-19 D letters, and GISHD SOs and CSHD field staff will be assigned the COVID-19 recommendation letters. SOs in GISHD and CSHD can do on-site inspections in lower and medium exposure risk facilities.

XIV. COVID-19 Fatalities.

A. Employer-Reported COVID-19 Fatalities.

1. The manager will collect the fatality information from the employer representative or other party reporting the fatality and fill out the Fatality Intake Worksheet.

2. The fatality will initially be recorded as Undetermined.

3. The manager will assign the fatality for a COVID-19 inspection. The compliance officer will typically be an IH.

4. The manager will send the email notifications in accordance with the MIOSHA Fatality Procedures Manual.
5. The SO/IH will open the inspection within one working day of MIOSHA receiving notification of the fatality, by phone if it is a COVID-19 telephone inspection and in person if it is a COVID-19 on-site inspection.

6. The SO/IH will follow the procedures for a COVID-19 inspection in section XIX of this instruction.

7. The SO/IH will ask for and attempt to obtain the following information during the opening conference:
   a) “Why” the employer thinks the fatality is work related if it is reporting the cause as COVID-19.
   b) When and how the employee was exposed to coronavirus.
   c) What control measures were in place to protect the employee and other employees at the time the employee presumably contracted coronavirus (approximately 4-14 days before the employee began experiencing symptoms). How the employer was complying with regulatory requirements at the time of the potential exposure.
   d) What control measures the employer has in place at the time of the opening conference. How the employer is complying with regulatory requirements at the time of the opening conference.

B. Media Reports of COVID-19 Fatalities.

1. The manager will examine the media report and determine the job exposure risk category (lower, medium, high, or very high) from the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). If there are multiple media reports, the manager will read them all.

2. Lower or Medium Exposure Risk Job. If the media report indicates that the decedent worked in a lower exposure risk job or medium exposure risk job, typically no further action needs to be taken, unless there are extenuating circumstances. The presumption will be that the fatality was not work-related, due to the higher probability of community acquisition rather than workplace acquisition of the infection.

3. High or Very High Exposure Risk Job. If the media report indicates that the decedent worked or potentially worked in a high exposure risk job or very high exposure risk job, the manager will call the employer to verify the employer had an employee die of a work-related case of COVID-19 and when the employer became aware of the fatality.
   a) Telephone Discussion – Confirms High or Very High Exposure Risk Job. If the discussion with the employer reveals that the employee worked in a high exposure risk job or very high exposure risk job, the manager will:
      (1) Assign an IH to investigate the fatality in line with the procedures for employer-reported fatalities in section XIV
(A) (5-7) and for COVID-19 inspections in section XIX of this instruction.

(2) Complete the Fatality Intake Worksheet. On the Fatality Intake Worksheet, label the fatality as Undetermined, the Receipt Type as Employer, and the Date Received and Time Received when the employer provided MIOSHA the information (confirming the fatality and that it was in a high or very high exposure risk job). Depending on the timing of the media report, the Date Received/Time Received will be beyond the 8-hour reporting deadline in ADM Part 11, Recording and Reporting of Occupational Injuries and Illnesses.

(3) Send the email notifications in accordance with the MIOSHA Fatality Procedures Manual. Send the email promptly, as MIOSHA has only 48 hours to enter the fatality into OIS once the employer reports it to the agency.

(4) Send a follow-up email notification when it has been decided whether fatality will be Covered or Not Covered and take the other steps required in the MIOSHA Fatality Procedures Manual on page 17, C. Process When Unable to Immediately Determine Coverage.

b) Telephone Discussion – Confirms Lower or Medium Exposure Risk Job. If the discussion with the employer reveals that the employee worked in a lower exposure or medium exposure risk job, or the employer otherwise denies that the fatality was work-related (and the manager concurs with that assessment), do not assign the fatality for inspection. The manager will:

(1) Complete the Fatality Intake Worksheet indicating why there is no inspection (no presumption of work-relatedness because job was in lower or medium exposure risk category, and there were no extenuating circumstances). On the Fatality Intake Worksheet, indicate the fatality is Not Covered, the Receipt Type is Employer, and the Date Received and Time Received is when the employer provided the agency the information (confirming the fatality and that it was in a lower or medium exposure risk job). The employer’s compliance with the fatality reporting deadline will not be an issue because the fatality will not be presumed to be work-related.

(2) Send the email notifications in accordance with the MIOSHA Fatality Procedures Manual.
4. If there are multiple fatalities at the same employer at the same location, the manager can complete one Fatality Intake Worksheet or complete one for each decedent if space for documentation is needed. Multiple victims can be recorded in one UPA and in one inspection. If the investigation reveals that there is more than one work-related fatality, but they are at different locations, a Fatality Intake Worksheet, UPA, and inspection must be created for each location.

XV. COVID-19 Referrals. The referrals include inpatient hospitalizations for COVID-19 that are reported by the employer (employer-reported referrals) or referred from the Occupational and Environmental Medicine Department at Michigan State University (Dr. Rosenman). The referrals also include referrals from local government, usually local health departments, of businesses not following the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19).

A. Referral Processing.

1. The manager will review the referral and determine the course of action.

2. Inpatient Hospitalizations Reported by the Employer or Referred by MSU.
   a) Referrals in establishments with high exposure and very high exposure risk jobs will typically be handled by a COVID-19 inspection or COVID-19 D Letter. The manager will assign the referral to a district office or directly to an IH.
   b) On referrals for establishments with lower or medium exposure risk jobs, the manager will assign as a recommendation letter.

3. Referrals from Local Government.
   a) If local government has determined the establishment is not following the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19), the referral will be assigned as a COVID-19 recommendation letter, COVID-19 D letter, or COVID-19 inspection. The COVID-19 inspections will be reserved usually for the most serious referrals, such as those alleging a case cluster at the establishment or multiple cases of COVID-19 among employees at the establishment.
   b) If the referral involves issues that can be addressed by the public health department using the Michigan Department of Health and Human Services (MDHHS) emergency orders, no action will be taken on the referral.

4. If the referral is assigned as a COVID-19 recommendation letter or COVID-19 D letter, support staff will give it a UPA number in OIS but not an inspection number. If no action is taken on the referral, it will not receive a UPA number. If the referral is assigned for a COVID-19 inspection, it will receive a UPA number and inspection number.
B. IH Responsibilities for On-Site Inspections and D Letters of Inpatient Hospitalizations. In addition to adhering to the standard procedures for COVID-19 on-site inspections and COVID-19 D letters, the IH will:

1. Determine the approximate date of the employee’s exposure to SARS-CoV-2 (4-14 days before the onset of symptoms).

2. Determine the benchmark for compliance at the time of employee exposure (either the Emergency Rules for Coronavirus Disease 2019 (COVID-19) or the COVID-19 guidance from the CDC and OSHA). See section XIX (G) for additional information.

3. Investigate whether the employer is following the Emergency Rules for Coronavirus Disease 2019 (COVID-19) at present.

4. Investigate whether the employer was following the applicable benchmark for compliance at the time of the employee’s exposure.

5. Collect from the employer the evidence and information that it is using to classify the inpatient hospitalization for COVID-19 as work-related.

6. On COVID-19 on-site inspections, if there are violations, propose citations for the Emergency Rules or other applicable MIOSHA regulations or the general duty clause of the MIOSH Act. See section XIX (G) for more information on citations.

XVI. COVID-19 Complaint Processing.

A. The manager will review and process the COVID-19 complaint in accordance with the MIOSHA FOM, for example, regarding who is eligible to file a complaint and the timeframe for filing.

B. If the complaint meets the requirements in the MIOSHA FOM for investigation, the complaint will be assigned as a COVID-19 recommendation letter, COVID-19 D letter, COVID-19 telephone inspection, or COVID-19 on-site inspection.

XVII. COVID-19 Recommendation Letter – by Phone and Letter. Most complaints and referrals assigned in establishments with medium and lower exposure risk to coronavirus will be handled by this method.

A. GISHD manager will assign the complaint or referral to an SO/IH for COVID-19 recommendation letter.

B. Support staff will give the complaint or referral a UPA number in OIS but not an inspection number.

C. Field Staff Responsibilities.

1. Complete a Case File Diary Sheet of their activities.

2. Contact the employer by phone.
3. Prior to the phone call, review the MIOSHA regulations applicable to the circumstances described in the complaint allegations. Tailor the conversation with the employer to these regulations.

4. Identify an employer representative.

5. Confirm the name and address of the employer and obtain the name, phone number, and email address of the employer representative to whom the correspondence will be sent.

6. Explain the coronavirus recommendation letter process during the phone call.

7. Communicate the complaint or referral allegations, the hazards of coronavirus, applicable MIOSHA regulations, and web resources.

8. Obtain the employer’s response to the complaint or referral allegations during the phone call including a description of the work environment, current conditions, and existing safeguards.

9. Attempt to obtain a verbal agreement from the employer on the steps that it will take to comply with MIOSHA regulations. Help the employer enact best practices, rather than simply apply the regulations narrowly. In circumstances of shortages of resources (respirators, appropriate PPE, hand sanitizer, personnel, etc.), the employer will be advised of the interim steps it can take to protect employee health in those circumstances.

10. Briefly summarize the employer’s response to the complaint or referral allegations on a Field Narrative or the Case File Diary Sheet, as well as the steps the employer says it will take to protect its employees.

11. Communicate to the employer that at this time no response from the employer is required but that it must follow applicable MIOSHA regulations and requirements.

12. Tell the employer it will receive a letter from MIOSHA summarizing the conversation and containing web resources.

13. Attempt two to three contacts with the employer for one to two days at different times (and different phone numbers if available). If the attempts do not yield an employer contact, the employer telephone call can be skipped. Be sure to leave a message if the phone number has voicemail. The dates, times, and phone numbers of the attempts will be logged on the Case File Diary Sheet along with the inability to contact.

14. Tell the employer that it is illegal to discriminate against employees for filing a complaint with MIOSHA whether the complainant wants their name revealed or not and that the complainant will be informed of their rights under the MIOSH Act.
15. If the complainant wants their name revealed, provide the employer with the name of the complainant during the phone call and in the COVID-19 recommendation letter.

16. Note on the Case File Diary Sheet that the employer was provided the name of the complainant during the phone call.

17. On the same day as the telephone contact, complete and email the COVID-19 recommendation letter to the employer. Templates for a COVID-19 recommendation letter can be found in Appendix A.


19. If the employer does not have an email address, the letter will be sent by US mail. If it is sent by US mail, delete the line on the template indicating it was sent by email.

20. A copy of the letter to the employer will be sent to the complainant using the method they used to file the complaint (email or US mail).

21. Complete the above tasks within one day of the assignment.

D. The support staff will close the complaint in OIS upon mailing of the recommendation letter.

XVIII. COVID-19 D Letter (Off-Site Investigation) – by Phone and Letter.

A. Manager will assign the complaint or referral to an SO/IH as a COVID-19 D letter.

B. Support staff will give the complaint or referral a UPA number in OIS but not an inspection number.

C. SO/IH Responsibilities during Initial Phone Call with Employer.

1. Complete a Case File Diary Sheet.

2. Review the MIOSHA regulations to identify those that are applicable to the circumstances described in the complaint or referral and the employee’s work operations. Tailor the conversation with the employer to these regulations.

3. Open the D letter with a phone call to the employer.

4. Attempt two to three contacts during one to two days at different times (and different phone numbers if available). If these attempts do not yield an employer contact, the employer telephone call can be skipped. Leave a message if the phone number has voicemail. The dates, times, and phone numbers of the attempts will be logged on the Case File Diary Sheet along with the inability to contact.
5. Initial Phone Call to Employer. During the phone call with the employer:
   a) Identify a management representative.
   b) Confirm the name and address of the employer and obtain the name, phone number, and email address of the employer representative to whom the correspondence will be sent.
   c) Explain the D letter (off-site investigation) process during the phone call.
   d) Communicate the allegations in the complaint or referral, the hazards of coronavirus, modes of transmission, applicable MIOSHA regulations, web resources, the timeline for response, and documentation expected from the employer in the response.
   e) Obtain an initial verbal response from the employer to the allegations during the phone call including a description of the work environment, current conditions, and existing safeguards.
   f) Attempt to obtain a verbal agreement from the employer on the steps that it will take to comply with MIOSHA regulations. Help the employer enact best practices, rather than simply apply the regulations narrowly. In circumstances of shortages of resources (respirators, appropriate personal protective equipment (PPE), hand sanitizer, personnel, etc.), advise the employer of the interim steps it can take to protect employee health.
   g) Give the employer two workdays to respond to the allegations.

6. Complete and email the D letter to the employer. Templates for a COVID-19 D letter can be found in Appendix B. If the employer does not have an email address, the letter will be sent by US mail. If it is sent by US mail, delete the line on the template indicating it was sent by email.


8. For Complaints Only.
   a) During the initial phone call, communicate to the employer that it is illegal to discriminate against employees for filing a complaint with MIOSHA whether the complaint wants their name revealed or not and that the complainant will be informed of their rights under the MIOSH Act.
   b) During the initial phone call, provide the employer with the name of the complainant if the complainant wants their name revealed.
c) During the initial phone call, if the employer was given the name of the complainant, note that on the Case File Diary Sheet.

d) If the complainant wants their name revealed, provide the employer with the name of the complainant in the D letter.

e) Send a copy of the D letter to the complainant using the method they used to file the complaint (email or US mail).

9. Complete these tasks within one day of assignment.

D. Satisfactory/Unsatisfactory Employer Responses.

1. If the employer responds within the deadline, the SO/IH will review the response to determine if it is satisfactory.

2. If the response is satisfactory, the SO/IH will close the complaint or referral.

3. If the response is unsatisfactory, the SO/IH will call the employer, ask additional questions, explain the deficiencies, and establish a timeline for correction, usually two or five more workdays.

4. If the employer does not respond within the deadline (original or revised), the SO/IH will contact the management representative.

5. If the management representative is unavailable, the SO/IH will go up the chain of command within the establishment until a management official is reached. The SO/IH will provide the employer with a revised response date to the D letter.

6. The SO/IH will not simply leave voicemail messages and send emails to the employer; the SO/IH will speak to an employer representative.

7. If the employer does not respond satisfactorily after multiple requests, the manager will decide whether to convert the COVID-19 D letter into a COVID-19 inspection.

8. Once the employer provides a satisfactory response, a closing letter will be sent to the employer via the method the D letter was sent to the employer (email or US mail) and to the complainant (if there is a complainant) via the method by which they filed the complaint (email or US mail).

9. Closure of the complaint or referral will be dependent on the employer’s compliance with the Emergency Rules for Coronavirus Disease 2019 (COVID-19) and any other applicable MIOSHA regulations.

XIX. COVID-19 Inspections.

A. Assignment Processing.

1. A COVID-19 inspection can be conducted for COVID-19 fatalities, COVID-19 referrals (usually inpatient hospitalizations), or COVID-19 complaints. A COVID-19 inspection can be conducted when the employer
does not provide a satisfactory response to a COVID-19 D letter after multiple requests by the agency.

2. The manager can assign the COVID-19 inspection as a COVID-19 on-site inspection or COVID-19 telephone inspection.

3. For unprogrammed activities, support staff will give the COVID-19 inspection an inspection number in OIS and associate the inspection with the UPA number for the fatality, referral, or complaint upon which the inspection is based. Programmed inspections for COVID-19 have an inspection number in OIS but no UPA number.

4. Inspections Based on D Letters. If the inspection is based on an unsatisfactory employer response to a D letter:
   a) The manager will usually assign the SO/IH who handled the D letter.
   b) Support staff will use the UPA number of the D letter to generate the inspection in OIS.

B. Inspections Based on D Letters. During the opening conference, the SO/IH will:
   1. Verify the name and address of the employer and the contact information for the employer representative previously obtained during the D letter process.
   2. Inform the employer that the inspection is based on its unsatisfactory response to the D letter and its potential lack of compliance with the MIOSH Act or MIOSHA regulations.
   3. Inform the employer of the potential violations that are being investigated.
   4. Obtain an updated management statement regarding the status of the potential violations along with supporting documentation from the employer. If the employer states that the status has not changed from the time of the D letter, additional documentation is not necessary.

C. Benchmark for Compliance. The benchmark for compliance is based on the date of the violation.
   1. If the date of violation was before October 15, 2020, the benchmark for compliance will be the CDC guidance for COVID-19 and the OSHA Guidance on Preparing Workplaces for COVID-19. Deficiencies in the employer’s COVID-19 program would be cited under the general duty clause of the MIOSH Act. For the CDC guidance, the SO/IH will select the guidance appropriate for the industry. The SO/IH will be cognizant that some of the CDC guidance is applicable to all businesses and employers, and some of the guidance is industry specific. The SO/IH will select the CDC guidance that was in effect on the date of the violation, as the CDC guidance is periodically updated.
2. If the date of the violation was on or after October 15, 2020, the benchmark for compliance will be the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). Deficiencies in the employer’s program will be cited under the Emergency Rules. If a hazard is not addressed by the Emergency Rules, the SO/IH should discuss the issue with their supervisor to determine if a citation under the general duty clause would be appropriate.

3. For all dates of violation, the SO/IH can evaluate the employer’s compliance with pre-existing MIOSHA regulations that could apply to COVID-19 such as GI Part 33, Personal Protective Equipment; GI Part 451, Respiratory Protection; and GI Part 474, Sanitation; and ADM Part 11, Recording and Reporting of Occupational Injuries and Illnesses.

D. OSHA Enforcement Memoranda. The SO/IH will follow the latest memoranda from OSHA on the enforcement of its standards related to COVID-19. The SO/IH will find the latest memoranda on OSHA webpage. At the time of the issuance of this instruction, the memoranda included:


E. COVID-19 Telephone Inspection. The SO/IH will:

1. Conduct the telephone inspection in the same manner as an onsite inspection according to the procedures set forth for onsite inspections in the MIOSHA FOM, except that the inspection will be conducted remotely by telephone and email.

2. Conduct the opening conference by telephone.

3. Complete a Case File Diary Sheet.

   a) Conduct the interviews by telephone.
   b) Conduct the number of employee interviews required by the MIOSHA FOM.
   c) Request from the employer a complete list of employees in the inspected area of the establishment and their contact numbers.
   d) Attempt to the extent possible to ensure that employees are afforded an opportunity for an interview that is private.
   e) Presentation of Credentials. For the interviewed individuals to validate that the contact from the SO/IH is indeed from an authorized MIOSHA representative, the SO/IH may elect to send the individual an email from their State of Michigan email account containing their signature block and the general phone number for the division, so that the individual can contact the division and be transferred to the SO/IH. The management representatives and interviewed employees will be encouraged to crosscheck the phone number in the SO/IH’s email against the phone number for the enforcement division at the MIOSHA website.

5. Walkaround and Review of Records and Programs. Omit the walkthrough of the establishment. To assess the employer’s compliance, obtain relevant photographs, records, and written programs from the employer by email. If the employer disputes a violation during the inspection, additional evidence may have to be obtained from the complainant or other party.

6. Conduct the closing conference by telephone.

F. COVID-19 On-Site Inspections. The SO/IH:

1. Will conduct the inspection according to the procedures for on-site inspections in the MIOSHA FOM.

2. Can deviate from the inspection procedures in the MIOSHA FOM in order to minimize or eliminate their exposure to SARS-CoV-2 in line with
Agency Instruction MIOSHA-SHMS-20-1, COVID-19 Preparedness and Response Plan for MIOSHA Staff with the approval of their supervisor.

G. Citations.

1. Citations can be issued for violations of the Emergency Rules for Coronavirus Disease 2019 (COVID-19) and other applicable MIOSHA standards such as GI Part 33, Personal Protective Equipment; GI Part 451, Respiratory Protection; GI Part 474, Sanitation; and ADM Part 11, Recording and Reporting of Occupational Injuries and Illnesses. Citations can be issued for a violation of the general duty clause of the MIOSH Act when there is no applicable MIOSHA regulation for a serious recognized hazard.

2. The employer will not be cited if abatement is not feasible. For example, a citation for lack of respiratory protection will not be issued when the employer has made a good faith effort to obtain respirators during a respirator supply shortage and the employer has followed all the CDC guidance for respiratory protection, including conserving and optimizing respirator use, disinfecting and reusing respirators, and work practices and administrative controls to reduce the necessity of respiratory protection.

3. When the citation is based on evidence (photographs, reports, sampling, interview statements) not from the employer (for example, from an employee, another government agency), the SO/IH must verify that the other party is willing to testify as to the authenticity of the evidence.

   a) COVID-19 Preparedness and Response Plan. An employer who has fully complied with the Emergency Rules, which reflected the existing guidance from CDC and OSHA at the time of the issuance, will be deemed to have satisfied the requirements of Rule 4(1).
   b) Remote Work Policy. Lack of implementation of a remote work policy would be cited as serious under Rule 4(1). Lack of the existence of a policy would be cited under Rule 5(8) typically as other-than-serious. Existence of a policy may be established through written documentation of the policy or employee acknowledgement of the existence of a policy.
   c) The SO/IH will follow the guidance in the MIOSHA FOM when determining citation classification, citation grouping, violation probability and severity, and the penalty calculation.
   d) Citation Classification.
      (1) Violations of Rule 5 to Rule 10 excluding sign posting and recordkeeping violations would normally be classified as serious.
(2) Sign posting violations would typically be classified as other-than-serious. Sign posting requirements can be found at Rule 7(2) and throughout Rule 9.

(3) Paperwork and recordkeeping violations would normally be classified as other-than-serious. Examples of paperwork and recordkeeping requirements are Rule 4, COVID-19 preparedness and response plan; Rule 5(8), remote work policy; Rule 9(6), appointment records; and Rule 11, Recordkeeping.

e) Citation Grouping.

(1) If the employer has no COVID-19 program, grouping will be limited to the main program areas which are administrative controls including basic infection prevention measures, personal protective equipment, health surveillance, and training.

(2) If the employer has a partial COVID-19 program, all the serious citations would typically be grouped into a single serious citation, and all the other-than-serious citations would typically be grouped into a single other-than-serious citation.

f) Violation Severity. The severity of a serious citation would typically be high because the most serious illness which could reasonably be expected to result from the employee’s exposure would be death from COVID-19.

g) Violation Probability.

(1) Factors that would be taken into account to assess the probability include the presence of COVID-19 cases on the employer’s MIOSHA 300 log, the number of SARS-CoV-2 cases among employees in the establishment, number of workers exposed, frequency and duration of the employee exposure to the hazard (including exposure to COVID-19 patients and residents), employee proximity to the hazardous condition, use of appropriate personal protective equipment or face coverings, and the presence of a health screening program.

(2) Paperwork and recordkeeping violations will normally have lesser probability.

5. General Duty Clause Citations. If deficiencies not covered by MIOSHA standards and regulations are discovered, a general duty clause citation may be proposed and issued. The issuance of the general duty clause citation will follow the MIOSHA FOM. These criteria must be met:
The identified hazard and violation are not covered by a MIOSHA standard.

The four elements for a general duty clause citation have been met. These are found under the MIOSHA FOM, Chapter VI. Inspection Documentation and Issuance Procedures Section (II)(B)(3)(a), Evaluation of Potential General Duty Clause Situations.

Each element is documented in the case file.

For element (4), a feasible and useful method to correct the hazard is listed in the CDC guidance or OSHA Guidance on Preparing Workplaces for COVID-19.

Documentation must include specific references from the CDC or OSHA to support the premise that the hazard is recognized and that compliance with the CDC guidance or OSHA Guidance on Preparing Workplaces for COVID-19 is a potentially feasible means to abate.

The elements under the MIOSHA FOM, Chapter VI. Inspection Documentation and Issuance Procedures Section (II)(B)(3)(b), Limitations on Use of the General Duty Clause have been addressed.

The CDC guidance and OSHA Guidance on Preparing Workplaces for COVID-19 will not be referenced by name in the general duty citation; however, these sources will be used to establish the existence of a recognized hazard and as examples of abatement.

The CDC guidance and OSHA Guidance on Preparing Workplaces for COVID-19 will be referenced on the Violation Worksheet if they are used to establish the recognized hazard or feasible abatement.

Because the CDC guidance and OSHA Guidance on Preparing Workplaces for COVID-19 are periodically updated, the reference documents will be placed in the case file, and the SO/IH will ensure that the referenced documents were those in effect on the violation date.

The exact wording of the CDC guidance or OSHA guidance will be used in the citation, both in the instance description and feasible abatement sections, except that advisory language (verbs like “should”, “may”, and “encourage”) will be converted to obligatory language (verbs like “shall” and “must”).

When determining if there is sufficient evidence for a general duty clause citation, the employer’s COVID-19 program in its entirety will be evaluated. If after considering all the measures the
employer has implemented, there still exists a recognized hazard, then a general duty citation can be proposed.

l) The guidance in the MIOSHA FOM is followed for citation classification, violation severity, and violation probability. General duty clause citations are classified as serious. Typically, the severity would be high (because COVID-19 can cause death) and the probability would be greater (due to widespread community infection and the ease of transmission).

m) The deficiencies in the employer’s COVID-19 program will be covered in a single general duty citation rather than multiple general duty citations.

n) De minimus violations and other-than-serious violations in the employer’s COVID-19 program prior to October 15, 2020, are to be addressed with a Safety and Health Recommendation. Examples of other-than-serious violations are the lack of a written COVID-19 preparedness and response plan (when the employer has implemented all the necessary components of the plan) and the lack of records for training, self-screening, or notification of a confirmed case of COVID-19 (when the employer has conducted the training, self-screening, or notification). When the lack of a written plan or the records occurs in conjunction with lack of implementation of the program element, the lack of the written plan or records would be included as part of the general duty citation.

o) Deficiencies in the employer’s COVID-19 program on or after October 15, 2020, not covered by the Emergency Rules (for example, the employer is not following CDC guidance) would most typically be handled with a Safety and Health Recommendation.

p) The penalty for the general duty citation shall be calculated in accordance with the MIOSHA FOM.

q) The proposed general duty citation must be reviewed by the division director.

r) See Appendix C for examples of general duty citations.

s) See Appendix D for a list of CDC guidance documents for employers as of the date of issuance of this instruction. Be aware that the guidance documents are updated periodically, and new guidance documents can be added.

6. The findings letter and citations will be sent to the employer by certified US mail.
XX. Programmed Inspections.
   A. The SO/IH will include COVID-19 in the scope of the inspection on all the planned programmed inspections that are comprehensive.
   B. The agency has two state emphasis programs for COVID-19 which generate planned programmed assignments for partial inspections:
      1. State emphasis program for COVID-19 for hospitals, which is described in Agency Instruction, MIOSHA-COM-20-3, COVID-19 Hospitals – State Emphasis Program (SEP).
      2. State emphasis program for COVID-19 in retail establishments, which is described in Agency Instruction, MIOSHA-COM-20-4, COVID-19 in Bars, Restaurants, Gas Stations, Grocery and Convenience Stores, and Other Retail – State Emphasis Program (SEP).

XXI. Coding in OIS.
   A. Use OIS code N 16 COVID-19 to track all enforcement activities related to COVID-19. This includes UPAs such as fatalities, referrals, and complaints. The complaints are coded for COVID-19 whether they are handled by D letter or telephone inspection, or deemed invalid (for example, not a current employee, no jurisdiction, prisoner). The code will also be used for COVID-19 telephone inspections.
   B. Clerical Staff. To input the code on a UPA, the clerical staff will go to the “Program Info” tab, click on “Add from Reference”, and select N 16 COVID-19 Response activities related to COVID-19 Coronavirus, as shown below.
C. SO/IH. To input the code on an inspection, the SO/IH will go to the “Inspection Type” tab, click on “Add from Reference” and select **N 16 COVID-19 Response activities related to COVID-19 Coronavirus**, as shown below.
Appendix A

TEMPLATES FOR COVID-19 RECOMMENDATION LETTERS
MIOSHA-COM-20-2R1
November 4, 2020
Coronavirus Disease 2019 (COVID-19) – Interim Enforcement Plan

COVID-19 RECOMMENDATION LETTER – LETTER TO ESTABLISHMENT – FOR COMPLAINTS

<Date>
Complaint #: {UPA Number}

{Name}
{Address}

{Address}
{Letter sent by email only, <email address>}

Dear {Name}:

The Michigan Occupational Safety and Health Administration (MIOSHA) has received a complaint alleging health hazards related to coronavirus at your worksite located at:

{Address}
{Address}

On {date}, I spoke to you by phone concerning this matter. I advised you of the complaint allegations. I informed you of the relevant sections of the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19) and any other applicable MIOSHA regulations. I communicated to you the steps you need to take if the allegations are true, so you can prevent your employees from contracting coronavirus and are in compliance with our regulations. At this time, MIOSHA is not planning an inspection due to the medium or lower exposure risk classification of your establishment or the relevant jobs. However, if the exposure situation changes or the agency receives additional complaints that employees are at risk, the agency reserves the right to conduct an inspection in the future.

As an employer, you are expected to comply with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). Additional resources include a sample preparedness and response plan for COVID-19 from MIOSHA, guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC), and the US Occupational Safety and Health Administration (OSHA) Guidance on Preparing Workplaces for COVID-19. Hyperlinks to these documents can be found below. Visit the State of Michigan COVID-19 Workplace Safety Guidance website for more information.

- For lower and medium risk places of employment, a sample preparedness and response plan for COVID-19 from MIOSHA – https://www.michigan.gov/documents/leo/leo_miosha_cet5700_691240_7.doc
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{{Only add this text if complainant wants their name revealed.} During our phone call regarding this matter on {date}, I informed you that the name of the complainant is ___________________. You were told that it is illegal to fire or otherwise discriminate against an employee for filing a complaint with MIOSHA or for raising safety and health issues with their employer.} Section 65 of Act 154, the Michigan Occupational Safety and Health Act, states that an employer shall not discriminate against an employee for exercising his or her rights under Act 154. If an employee believes that he or she was discharged or otherwise discriminated against as a result of filing a complaint, the employee may file a complaint with the MIOSHA Employee Discrimination Section. The complainant will be informed of their discrimination rights under Act 154. Employers with effective safety and health programs recognize that employees who raise occupational health concerns are valuable because they can alert them to potential deficiencies in their programs and lead to improvements in the health of staff.

If you have any questions concerning this matter, please contact me at (insert telephone number). Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,

{Name}
{Title}

{Signers initials in capital letters}: {person preparing letter initials – lower case}
COVID-19 RECOMMENDATION LETTER – LETTER TO ESTABLISHMENT – FOR REFERRALS

{Date} Complaint #: {UPA Number}

{Name}
{Address}
{Address}

{Letter sent by email only, <email address>}

Dear {Name}:

The Michigan Occupational Safety and Health Administration (MIOSHA) has received a referral from local government alleging health hazards related to coronavirus at your worksite located at:

{Address}
{Address}

On {date}, I spoke to you by phone concerning this matter. I advised you of the referral allegations. I informed you of the relevant sections of the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19) and any other applicable MIOSHA regulations. I communicated to you the steps you need to take if the allegations are true, so you can prevent your employees from contracting coronavirus and are in compliance with our regulations. At this time, MIOSHA is not planning an inspection due to the medium or lower exposure risk classification of your establishment or the relevant jobs. However, if the exposure situation changes or the agency receives additional information that employees are at risk, the agency reserves the right to conduct an inspection in the future.

As an employer, you are expected to comply with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). Additional resources include a sample preparedness and response plan for COVID-19 from MIOSHA, guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC), and the US Occupational Safety and Health Administration (OSHA) Guidance on Preparing Workplaces for COVID-19. Hyperlinks to these documents can be found below. Visit the State of Michigan COVID-19 Workplace Safety Guidance website for more information.

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- For lower and medium risk places of employment, a sample preparedness and response plan for COVID-19 from MIOSHA – https://www.michigan.gov/documents/leo/leo_miosha_cet5700_691240_7.doc

If you have any questions concerning this matter, please contact me at (insert telephone number). Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,

{Name}
{Title}

{Signers initials in capital letters}: {person preparing letter initials – lower case}
Appendix B

TEMPLATES FOR COVID-19 D LETTERS
COVID-19 D LETTER – INITIAL LETTER TO ESTABLISHMENT – FOR COMPLAINTS

{Date}                                                   Complaint #: {UPA Number}

{Name}
{Address}
{Address}

{Letter sent by email only, <email address>}

Dear {Name}:

The Michigan Occupational Safety and Health Administration (MIOSHA), {General Industry Safety and Health Division or Construction Safety and Health Division}, has received a complaint alleging safety and/or health hazards at your worksite located at:

{Address}
{Address}

The hazards relate to coronavirus. A list of the alleged hazard(s) is as follows:

1.

Based on this complaint, we are conducting an off-site complaint investigation. We do not intend to initiate an on-site inspection currently. As part of the off-site complaint investigation, you are requested to perform a self-audit of the alleged hazardous conditions and take appropriate steps to protect employee health, including complying with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). We ask that you complete these steps within two workdays of the date of this letter.

Also within two workdays, please provide me in writing the results of your self-audit, and attach any supporting documentation of your findings. There is no penalty for finding deficiencies in a self-audit; you must however correct those deficiencies to ensure employee health and compliance with our regulations. In your response, include a description of any corrective action you have taken or are in the process of taking. Examples of supporting documents are your written COVID-19 preparedness and response plan, photographs of implemented control measures, equipment receipts, and records of training, health screening, and employee notification of COVID-19 cases.

MIOSHA is aware that the current pandemic has created an increased demand for personal protective equipment and as a result supplies may occasionally be limited. If this situation is preventing you from furnishing protective equipment to your employees, you should provide
Coronavirus Disease 2019 (COVID-19) – Interim Enforcement Plan

documentation of the efforts you have made to obtain that equipment and of the alternative
measures utilized to protect employees while you attempt to secure such equipment.

In your response to this letter, we will need to see in particular:

•

If you provide the requested information, we will probably not need to conduct an on-site
investigation. Your responses may be shared and discussed with employees for verification. If
we do not receive a response from you within two workdays indicating that appropriate action
has been taken or that no uncontrolled hazard exists and why, an on-site inspection may be
conducted.

Please note: MIOSHA selects, for on-site inspection, a random sample of the off-site complaint
investigations where we have received responses in which employers have indicated satisfactory
corrective action. This policy has been established to ensure that employers have taken the action
asserted in their responses.

You are requested to post a copy of this letter and your response to it where they will be readily
accessible for review by all your employees until MIOSHA deems the case closed.

{[Only add this text if complainant wants their name revealed.] During our phone call regarding this
matter on {date}, I informed you that the name of the complainant is _____________________.
You were told that it is illegal to fire or otherwise discriminate against an employee for filing a
complaint with MIOSHA or for raising safety and health issues with their employer.} Section 65 of
Act 154, the Michigan Occupational Safety and Health Act, states that an employer shall not
discriminate against an employee for exercising his or her rights under Act 154. If an employee
believes that he or she was discharged or otherwise discriminated against as a result of filing a
complaint, the employee may file a complaint with the MIOSHA Employee Discrimination
Section. The complainant will be informed of their discrimination rights under Act 154.
Employers with effective safety and health programs recognize that employees who raise
occupational health concerns are valuable because they can alert them to potential deficiencies in
their programs and lead to improvements in the health of staff.

As an employer, you are expected to comply with the MIOSHA Emergency Rules for Coronavirus
Disease 2019 (COVID-19). Additional resources include a sample preparedness and response plan
for COVID-19 from MIOSHA, guidance for COVID-19 from the US Centers for Disease Control
and Prevention (CDC), and the US Occupational Safety and Health Administration (OSHA)
Guidance on Preparing Workplaces for COVID-19. Hyperlinks to these documents can be found
below. Visit the State of Michigan COVID-19 Workplace Safety Guidance website for more
information.
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- For lower and medium risk places of employment, a sample preparedness and response plan for COVID-19 from MIOSHA – https://www.michigan.gov/documents/leo/leo_miosha_cet5700_691240_7.doc

If you have any questions concerning this matter, please contact me at (insert telephone number). Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,

{Name}
{Title}

{Signers initials in capital letters}: {person preparing letter initials – lower case}

Enclosure
COVID-19 D Letter – Initial Letter to Establishment – For Employer-Reported Referrals

{Date}                                      UPA #: {UPA Number}

{Name}
{Address}
{Address}

{Letter sent by email only, <email address>}

Dear {Name}:

On {Date}, your company reported an occupational injury or illness to the Michigan Occupational Safety and Health Administration (MIOSHA) pertaining to your worksite located at:

{Address}
{Address}

A description of the reported injury is as follows:

1.

Based on this report, we are conducting an off-site investigation. We do not intend to initiate an on-site inspection currently. As part of the off-site investigation, you are requested to perform a self-audit of the alleged hazardous conditions and take appropriate steps to protect employee health, including complying with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). We ask that you complete these steps within two workdays of this letter.

Also within those two workdays, please provide me in writing the results of your self-audit, and attach any supporting documentation of your findings. There is no penalty for finding deficiencies in a self-audit; you must however correct those deficiencies to ensure employee health and compliance with our regulations. In your response, include a description of any corrective action you have taken or are in the process of taking. Examples of supporting documents are your written COVID-19 preparedness and response plan, photographs of implemented control measures, equipment receipts, and records of training, health screening, and employee notification of COVID-19 cases.

MIOSHA is aware that the current pandemic has created an increased demand for personal protective equipment and as a result supplies may occasionally be limited. If this situation is preventing you from furnishing protective equipment to your employees, you should provide
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documentation of the efforts you have made to obtain that equipment and of the alternative measures utilized to protect employees while you attempt to secure such equipment.

In your response to this letter, we will need to see in particular:

•

•

If you provide the requested information, we will probably not need to conduct an on-site investigation. If we do not receive a response from you within two workdays indicating that appropriate action has been taken or that no uncontrolled hazard exists and why, an on-site inspection may be conducted.

Please note: MIOSHA selects for on-site inspection a random sample of the off-site investigations where we have received responses in which employers have indicated satisfactory corrective action. This policy has been established to ensure that employers have taken the action asserted in their responses.

You are requested to post a copy of this letter and your response to it where they will be readily accessible for review by all your employees until MIOSHA deems the case closed.

As an employer, you are expected to comply with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). Additional resources include a sample preparedness and response plan for COVID-19 from MIOSHA, guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC), and the US Occupational Safety and Health Administration (OSHA) Guidance on Preparing Workplaces for COVID-19. Hyperlinks to these documents can be found below. Visit the State of Michigan COVID-19 Workplace Safety Guidance website for more information.

• For lower and medium risk places of employment, a sample preparedness and response plan for COVID-19 from MIOSHA – https://www.michigan.gov/documents/leo/leo_miosha_cet5700_691240_7.doc
• CDC guidance documents for COVID-19 – www.cdc.gov/coronavirus

If you have any questions concerning this matter, please contact me at (insert telephone number). Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,
MIOSHA-COM-20-2R1
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Coronavirus Disease 2019 (COVID-19) – Interim Enforcement Plan

Signature

{Name}
{Title}

{Signers initials in capital letters}: {person preparing letter initials – lower case}

Enclosure
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COVID-19 D LETTER – INITIAL LETTER TO ESTABLISHMENT – FOR LOCAL GOVERNMENT REFERRALS

{Date}                                             Government Referral #: {UPA Number}

{Name}
{Address}
{Address}

{Letter sent by email only, <email address>}

Dear {Name}:

The Michigan Occupational Safety and Health Administration (MIOSHA) has received a referral from a local government agency alleging COVID-19 health hazards to your employees and potential violations of the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). The local government agency may have already contacted you to abate these hazards at your worksite located at:

{Address}
{Address}

A list of the alleged hazard(s) is as follows:

1.

Based on this referral, we are conducting an off-site referral investigation. We do not intend to initiate an on-site inspection currently. As part of this off-site investigation, you are requested to perform a self-audit of the alleged hazardous conditions and take appropriate steps to protect employee health, including complying with the MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19). We ask that you do so within two workdays of the date of this letter.

Also within those two workdays, please provide me in writing the results of your self-audit, and attach any supporting documentation of your findings. There is no penalty for finding deficiencies in a self-audit; you must however correct those deficiencies to ensure employee health and compliance with our regulations. In your response, include a description of any corrective action you have taken or are in the process of taking. Examples of supporting documents are your written COVID-19 preparedness and response plan, photographs of implemented control measures, equipment receipts, and records of training, health screening, and employee notification of COVID-19 cases.

MIOSHA is aware that the current pandemic has created an increased demand for personal protective equipment and as a result supplies may occasionally be limited. If this situation is
preventing you from furnishing protective equipment to your employees, you should provide
documentation of the efforts you have made to obtain that equipment and of the alternative
measures utilized to protect employees while you attempt to secure such equipment.

In your response to this letter, we will need to see in particular:

- 
- 

If you provide the requested information, we will probably not need to conduct an on-site
investigation. Your responses may be shared and discussed with the local health department for
verification. If we do not receive a response from you within two workdays indicating that
appropriate action has been taken or that no uncontrolled hazard exists and why, an on-site
inspection may be conducted.

Please note: MIOSHA selects for on-site inspection a random sample of the off-site investigations
where we have received responses in which employers have indicated satisfactory corrective action.
This policy has been established to ensure that employers have taken the action asserted in their
responses.

You are requested to post a copy of this letter and your response to it where they will be readily
accessible for review by all your employees until MIOSHA deems the case closed.

As an employer, you are expected to comply with the MIOSHA Emergency Rules for Coronavirus
Disease 2019 (COVID-19). Additional resources include a sample preparedness and response plan
for COVID-19 from MIOSHA, guidance for COVID-19 from the US Centers for Disease Control
and Prevention (CDC), and the US Occupational Safety and Health Administration (OSHA)
Guidance on Preparing Workplaces for COVID-19. Hyperlinks to these documents can be found
below. Visit the State of Michigan COVID-19 Workplace Safety Guidance website for more
information.

- MIOSHA Emergency Rules for Coronavirus Disease 2019 (COVID-19) –
- For lower and medium risk places of employment, a sample preparedness and response plan
  for COVID-19 from MIOSHA –
  https://www.michigan.gov/documents/leo/leo_miosha_cet5700_691240_7.doc
- OSHA Guidance on Preparing Workplaces for COVID-19 –
  www.michigan.gov/COVIDWorkplaceSafety

If you have any questions concerning this matter, please contact me at (insert telephone number).
Your personal support and interest in the safety and health of your employees is appreciated.
Sincerely,

{Name}
{Title}

{Signers initials in capital letters}: {person preparing letter initials – lower case}

Enclosure
Appendix C

EXAMPLES OF GENERAL DUTY CLAUSE CITATIONS FOR COVID-19

Citation for Not Maintaining Social Distancing and Requiring Face Coverings – Basis of recognized hazard and feasible abatement is CDC Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 6, 2020

408.1011(a): ACT 154, MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT
An employer shall furnish to each employee, employment and a place of employment that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee.

(On July 13, 2020, the employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were not protected from the hazard of contracting the virus, SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of coronavirus disease 2019 (COVID-19):

a. The employer did not have employees including management wear face coverings during a break time when they were huddled together, within three feet of each other, having a conversation.
b. The employer did not practice social distancing or avoid large gatherings. During a break, employees were allowed to move a barrier in the break room, so they could sit side by side. Morning meetings were being held in the small breakrooms where employees were having to stand shoulder to shoulder.)

Among other methods, some feasible and acceptable abatement methods to correct this hazard are:

a. Wear cloth face coverings as a measure to contain the wearer's respiratory droplets to help protect their co-workers.
b. Establish policies and practices for social distancing. Increase physical space between employees and customers (e.g., physical barriers such as partitions). Use signs, tape marks, or other visual cues such as decals or colored tape on the floor, placed 6 feet apart, to indicate where to stand when physical barriers are not possible. Social distance by avoiding large gatherings and maintaining distance (at least 6 feet) from others when possible.
Citation for No Response Plan, No Training, No Health Screening, No Social Distancing, and No Face Coverings – Basis of recognized hazard and feasible abatement is OSHA Guidance on Preparing Workplaces for COVID-19 and CDC Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 6, 2020

408.1011(a): ACT 154, MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT
An employer shall furnish to each employee, employment and a place of employment that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee.

(On July 1, 2020, the employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were not protected from the hazard of contracting the virus, SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of coronavirus disease 2019 (COVID-19):

a. The employer had not developed a COVID-19 preparedness and response plan.
b. The employer had not provided COVID-19 training to employees that covered policies to reduce the spread of COVID-19 through cloth face coverings and social distancing.
c. The employer had not conducted a daily in-person or virtual health checks (that is, for COVID-19 symptoms including temperature screening) of workers as they report to work.
d. The employer did not have members of management and delivery drivers wear face coverings when talking to other employees while standing within six feet of them.)

Among other methods, a feasible abatement method to correct this hazard is to:

a. Develop a COVID-19 preparedness and response plan, consistent with the recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Safety and Health Administration.
b. Provide employees with training policies to reduce the spread of COVID-19, general hygiene, symptoms of COVID-19, what employees are to do if they are sick, cleaning and disinfection of work surfaces, the use of cloth face coverings, social distancing, and safe work practices.
c. Conduct daily in-person or virtual health checks (that is, for COVID-19 symptoms and temperature screening) of workers as they report to work.
d. Wear cloth face coverings as a measure to contain the wearer’s respiratory droplets to help protect their co-workers and establish policies and practices for social distancing. Alter your workspace to help workers and customers maintain social distancing and physically separate employees from each other and from customers, when possible.
Appendix D

CDC GUIDANCE DOCUMENTS FOR COVID-19 FOR EMPLOYERS
https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance-list.html?Sort=Date%3A%3Adesc

Businesses (General)

- Cleaning and Disinfection for Non-Emergency Transport Vehicles (4/14/20)
- COVID-19 Critical Infrastructure Sector Response Planning (5/6/20)
- Guidance for Cleaning and Disinfecting (5/7/20)
- Guidance for Reopening Buildings After Prolonged Shutdown or Reduced Operation (9/22/20)
- Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19 (9/11/20)
- Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 2020 (5/6/20)
- Reopening Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools, and Homes (5/7/20)

Personal Protective Equipment

- Considerations for Optimizing the Supply of Powered Air-Purifying Respirators (PAPRs) (4/19/20)
- Considerations for Release of Stockpiled N95s Beyond the Manufacturer-Designated Shelf Life (7/20/20)
- Decontamination and Reuse of Filtering Facepiece Respirators (4/9/20)
- Elastomeric Respirators: Strategies During Conventional and Surge Demand Situations (4/20/20)
- Healthcare Supply of Personal Protective Equipment (3/14/20)
- Implementing Filtering Facepiece Respirator (FFR) Reuse, Including Reuse after Decontamination, When There Are Known Shortages of N95 Respirators (8/4/20)
- Optimizing Personal Protective Equipment (PPE) Supplies (7/16/20)
- Personal Protective Equipment When Caring for COVID-19 Patients (4/3/20)
- Strategies for Optimizing the Supply of Disposable Medical Gloves (4/30/20)
- Strategies for Optimizing the Supply of Eye Protection (7/15/20)
- Strategies for Optimizing the Supply of Facemasks (6/28/20)
- Strategies for Optimizing the Supply of Isolation Gowns (10/9/20)
- Strategies for Optimizing the Supply of N95 Respirators (9/16/20)
- Use Personal Protective Equipment when Caring for Patients with Confirmed or Suspected COVID Factsheet (4/22/20)
- Using Personal Protective Equipment (PPE) (8/19/20)
Healthcare Facilities, Healthcare Professionals

- Blood and Plasma Collection (3/21/20)
- Collection and Submission of Postmortem Specimens from Deceased Persons with Known or Suspected COVID-19 (6/4/20)
- Considerations for Alternate Care Sites (4/24/20)
- Digital Contact Tracing Tools (5/26/20)
- Healthcare Infection Prevention and Control FAQs (4/20/20)
- Interim Guidance on Developing a COVID-19 Case Investigation & Contact Tracing Plan: Overview (5/26/20)
- Interim Guidance on Testing Healthcare Personnel for SARS-CoV-2 (7/17/20)
- Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic (7/15/20)
- Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings (4/2/20)
- Public Health Activity Guidance-Interim CDC Guidance on Handling Non-COVID-19 Public Health Activities that Require Face-to-Face Interaction with Clients in the Clinic and Field in the Current COVID-19 Pandemic (4/9/20)
- Training Case Investigators and Contact Tracers (5/26/20)
- Using Telehealth to Expand Access to Essential Health Services during the COVID-19 Pandemic (6/10/20)
- What Healthcare Personnel Should Know about Caring for Patients with Confirmed or Possible COVID-19 Infection (4/2/20)
- When to Initiate Case Investigation and Contact Tracing Activities (5/26/20)
Agricultural Workers

- Agriculture Workers and Employers (6/11/20)

Childcare and K-12 Schools

- Cleaning, Disinfection, and Hand Hygiene in Schools – a Toolkit for School Administrators (9/8/20)
- Considerations for Youth Sports (5/29/20)
- Guidance for Childcare Programs that Remain Open (7/23/20)
- Guidance for K-12 School Administrators on the Use of Masks in Schools (8/11/20)
- Interim Guidance for Administrators of US K-12 Schools and Child Care Programs (3/19/20)
- Operating Schools during COVID-19: CDC’s Considerations (9/1/20)
- Strategies for Protecting K-12 School Staff from COVID-19 (8/20/20)

Colleges and Universities

- Considerations for Institutions of Higher Education (5/30/20)

Community and Faith-Based Organizations

- Considerations for Communities of Faith (5/23/20)

Correctional Facilities

- Interim Considerations for SARS-CoV-2 Testing in Correctional and Detention Facilities (8/10/20)
- Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (7/22/20)

Dentistry

- Guidance for Dental Settings (8/28/20)

First Responders

- Interim Recommendations for Emergency Medical Services (EMS) Systems and 911 Public Safety Answering Points/Emergency Communication Centers (PSAP/ECCs) in the United States During the Coronavirus Disease (COVID-19) Pandemic (7/15/20)
- What Law Enforcement Personnel Need to Know about Coronavirus Disease 2019 (COVID-19) (4/2/20)
Homeless Shelters and Unsheltered Homelessness

- Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) (8/5/20)
- Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials (8/6/20)
- Investigating and Responding to COVID-19 Cases at Homeless Service Provider Sites (8/6/20)
- Responding to Coronavirus Disease 2019 (COVID-19) among People Experiencing Unsheltered Homelessness (3/22/20)
- Screening Clients at Entry to Homeless Shelters (3/30/20)

Laboratories

- Guidance for General Laboratory Safety Practices during the COVID-19 Pandemic (8/15/20)
- Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19) (9/19/20)

Mail and Parcel Delivery Drivers

- What Mail and Parcel Delivery Drivers Need to Know about COVID-19 (4/17/20)

Manufacturing Workers

- Data Visualization: How to Align Manufacturing Workstations, If Feasible (5/22/20)
- Manufacturing Workers and Employers (5/12/20)

Meat and Poultry Processing Workers and Employers

- Meat and Poultry Processing Workers and Employers (7/9/20)

Nursing Homes and Residential Care Facilities

- Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities (5/29/20)
- Preparing for COVID-19 in Nursing Homes (6/25/20)
- Preventing the Spread of COVID-19 in Retirement Communities and Independent Living Facilities (Interim Guidance) (3/20/20)

Pharmacies

- Guidance for Pharmacies (6/28/20)
Public Health Professionals

- Guidance for Group Homes for Individuals with Disabilities (5/30/20)
- Interim Infection Control Guidance for Public Health Personnel Evaluating Persons Under Investigation (PUIs) and Asymptomatic Close Contacts of Confirmed Cases at Their Home or Non-Home Residential Settings (4/10/20)
- Personnel with Potential Exposure in a Healthcare Setting to Patients with Coronavirus Disease (COVID-19) (3/7/20)
- Public Health Activity Guidance (4/9/20)

Public Pools, Hot Tubs, Water Playgrounds, Fairs, Shows, Carnivals, and Other Events

- Considerations for Public Pools, Hot Tubs, and Water Playgrounds During COVID-19 (7/15/20)
- COVID-19 Considerations for Animal Activities at Fairs, Shows, and Other Events (7/6/20)
- COVID-19 Considerations for Traveling Amusement Parks and Carnivals (7/4/20)

Restaurants and Bars

- Considerations for Restaurants and Bars (9/6/20)

Rideshare, Taxi, Limo, and other Passenger Drivers

- What Rideshare, Taxi, Limo, and other Passenger Drivers-for-Hire Need to Know about COVID-19 (4/17/20)

Transit Station Workers

- What Bus Transit Operators Need to Know about COVID-19 (8/5/20)
- What Rail Transit Operators Need to Know about COVID-19 (8/6/20)
- What Transit Maintenance Workers Need to Know about COVID-19 (8/7/20)
- What Transit Station Workers Need to Know about COVID-19 (8/7/20)

Veterinary Clinics

- Interim Infection Prevention and Control Guidance for Veterinary Clinics During the COVID-19 Response (4/22/20)
- Interim Infection Prevention and Control Guidance for Veterinary Clinics Treating Companion Animals During the COVID-19 Response (8/12/20)
Youth and Summer Camps

- Suggestions for Youth and Summer Camps (6/25/20)