



MAR 18 2020

The Honorable Robert C. "Bobby" Scott
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Scott:

The Department of Labor received your letter regarding the Occupational Safety and Health Administration's (OSHA) response to the recent outbreak of Coronavirus Disease 2019 (COVID-19), as well as OSHA's infectious disease rulemaking activity. The President and his administration are taking aggressive action to protect public health. As you know, the President signed a bipartisan spending bill making \$8.3 billion in funding available to help fight COVID-19. He also has supported legislation passed by the House to, among other things, make medical testing more widely available and affordable and to support employee paid leave and unemployment insurance payments. And, on March 13, he issued the "Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease Outbreak." These actions are part of a far broader effort by a number of federal departments and agencies as the government works to monitor, contain, and mitigate the spread of the virus. OSHA takes the virus's potential risk to workers very seriously and is actively participating in the overall federal response to this emerging threat.

Presently, the U.S. Centers for Disease Control and Prevention (CDC) is recommending that healthcare workers follow standard and transmission-based infection control precautions for suspected cases of COVID-19. The CDC's interim guidelines are frequently updated and already include recommendations for worker protection that incorporate the lessons learned from prior outbreaks of pandemic influenza, severe acute respiratory syndrome, Middle East respiratory syndrome, and Ebola. For example, the interim recommendations already refer to OSHA's personal protective equipment (PPE) standards (29 CFR 1910 Subpart I), the Respiratory Protection standard (29 CFR 1910.134), and the General Duty clause (Section 5(a)(1) of the Occupational Safety and Health Act of 1970), as well as links to the OSHA respiratory protection training videos.

Moreover, OSHA has a number of existing enforcement tools it is using to help address worker protections for COVID-19. As noted, OSHA's PPE standards already address exposure issues of workers to require the use of gloves, eye, and face protection, as well as respiratory protection. The Bloodborne Pathogens standard applies to occupational exposure to human blood, certain body fluids, and other potentially infectious materials; and the provisions of the standard offer a framework that will control some transmission of the virus. And, the General Duty clause authorizes enforcement action in cases involving "recognized hazards that are causing or are likely to cause death or serious physical harm"—which could include improper exposure to

COVID-19. OSHA can and will use enforcement, as necessary, to ensure the protection of workers exposed to COVID-19.

OSHA is also working proactively to assist employers seeking information to protect workers from illness. The agency recently issued a guidance document, "Guidance on Preparing Workplaces for COVID-19," which details steps employers can take to reduce workers' risk of exposure. OSHA also recently created a Coronavirus Safety and Health Topics page on its website at <http://www.osha.gov/SLTC/> to help assure the safety and health of America's workers. OSHA will continue to update this website as new information becomes available.

And, following President Donald J. Trump's March 11, 2020 memorandum on the availability of respirators during the COVID-19 outbreak, OSHA issued new temporary guidance aimed at ensuring healthcare workers have full access to needed N95 respiratory protection in light of anticipated shortages.

In your letter, you inquired about OSHA's regulatory activity with respect to an infectious disease standard. OSHA believes that the healthcare industry fully understands the gravity of the situation and is taking the appropriate steps to protect its workers while responding to the public health emergency. The CDC guidelines, for instance, are universally distributed, and public awareness of COVID-19 is high. We believe that working on a formal rulemaking at the same time that the healthcare industry is responding to the COVID-19 public health emergency is counterproductive to both the public health response and robust stakeholder engagement. For example, the efforts employers would take to document compliance with such a standard would distract them from other vital response activities. OSHA can best meet the needs of America's workers by being able to rapidly respond in a flexible environment.

We note that OSHA is able to issue an Emergency Temporary Standard (ETS) when there is a minimum level of workplace safety practice that is necessary to protect workers, but is not being followed by employers. For the reasons identified above, however, we currently see no additional benefit from an ETS in the current circumstances relating to COVID-19. OSHA is continuing to monitor this quickly evolving situation and will take the appropriate steps to protect workers from COVID-19 in coordination with the overall U.S. government response effort.

Thank you for your shared commitment to occupational safety and health. For further assistance, please contact the Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,



Loren Sweatt
Principal Deputy Assistant Secretary