



ILA-USMX JOINT SAFETY COMMITTEE

The Novel Coronavirus

Workers and Employers Want to Know

Q. Several of our constituent employers have asked the ILA~USMX Joint Safety Committee (JSC) questions similar to this one: “We’ve experienced a small number of workers who have tested positive for Covid-19. What are OSHA’s recordkeeping requirements for these occupational illness cases?”

In most cases, OSHA will not enforce its recordkeeping rules that otherwise would have required all employers to make determinations as to whether “workers who contacted COVID-19 did so due to exposures at work.” In sum, there is a limited exemption.....

OSHA **did not** retract its basic position that COVID-19 “is a recordable illness,” which must be recorded as a work-related illness on OSHA 300 logs (or their equivalent) if: **(1)** the employee has a “confirmed case of COVID-19” based on at least one positive test for the virus; **(2)** the COVID-19 is “work-related,” per 29 CFR § 1904.5, *i.e.*, the disease is contracted from exposure in the work environment; and **(3)** the case meets recording criteria, including a significant illness diagnosed by a healthcare professional or days away from work.

Instead, OSHA recognized that in areas with community-spread of the coronavirus, most employers “may have difficulty” making determinations that COVID-19 cases were due to exposures at work, so those employers would no longer have to affirmatively investigate whether the employee’s COVID-19-positive diagnosis was work-related in order to avoid the risk of an OSHA enforcement action for a recordkeeping violation.

The agency’s internal policy memorandum is anything but clear, but is nonetheless provided to the JSC’s constituents through this link:

<https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Working Together For The Benefit Of All

ILA-USMX OSH Circulars are devised to reflect the best possible information and guidance, and are products of diligent research and the most up to date subject matter knowledge. Consequently, while the information contained herein is believed to be accurate, owing to a host of factors ILA-USMX can convey no direct or implied warranty relative to the reliance of parties upon content.