

OSHA Permanent Rulemaking Talking Points

1. Rules need to expire when the Governor's declaration of a public health emergency expires or is rescinded.
2. Concerned about the new requirements around vehicles and how the various OSHA investigators will enforce them. In particular, it is hard to enforce requirements while employees are in vehicles with no manager to enforce. Further, in many instances it is impossible to have workers travel in separate vehicles.
3. The new note about the Hazard Communication standard is confusing. OSHA is requiring employers to do cleaning on a specific schedule. If there are cleaning chemicals that trigger this requirement, OSHA should post those and the associated requirements clearly rather than referencing very complicated rules that are much more linked to other toxic chemicals.
4. We remain concerned that these ventilation requirements will add significant costs burdens. It can be quite costly to get service providers out annually, let alone quarterly. This is even more true if there are wildfires and smoke damage and we will need to change filters again.
5. The 30-year record keeping requirement for records notifying employees they may have been exposed to someone with COVID-19 are new and it isn't clear what purpose this serves. These records notify the employees of the potential exposure but in most instances simply duplicate the template produced by OSHA. The exposure notice has no probative value to aid in OSHA's enforcement. The regulation cited in the proposed rules say that access to this record is necessary to "yield both direct and indirect improvements in detection, treatment, and prevention of occupational disease." Access to these notification records will not lead to improvements, they will only burden employers with excessively long recordkeeping requirements. Further, we do not believe these records meet the definition of covered records under 29 CFR 1910.1020.
6. The new vaccination requirements were not discussed with the advisory committee or stakeholders in any meaningful way. We are alarmed that OSHA argues that employers property is suddenly not their own. Further, the requirement about declination forms is more problematic. What value does this provide? Employers likely don't want these records unless they plan to make vaccination a condition of employment, in which case such a form should be discretionary, not mandatory.
7. The entirely new requirement that employers provide written notices of all potential available PTO or sick time under local, state or federal law is unnecessary and burdensome. Existing law already requires significant notification requirements. Additional requirements will require additional steps and provide the possibility for mistakes that the employer could then be liable for even if they have provided the information previously.

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