

8 Things to Do to Prepare for OHS Compliance in 2021



Preventing COVID will be the primary but not the only objective.

As with every other aspect of society in 2020, COVID-19 has become the driving force in OHS compliance. Regrettably, that will continue to be the case for at least the early part of 2021. Consequently, OHS coordinators' biggest challenge in the coming year will be to implement an exposure control plan that incorporates the measures required by current emergency orders and public health guidelines. But even in times of pandemic, there will be a few important new laws for OHS coordinators to deal with. Here are the 8 things to put on your compliance to-do list in anticipation of COVID and other key legal and regulatory changes taking effect in 2021.

The 5 COVID To-Do's

Let's start with the 5 things you should be doing now and continue to do to deal with the COVID situation.

1. Conduct COVID-19 Screening Checks

Challenge: Infection control starts literally at the front door with pre-entry screening to ensure that persons who may be carrying the virus don't get into the building. Parameters:

- **Whom to screen:** All workers, which includes employees, contractors and volunteers that conduct business or related activities at the site and essential visitors like delivery, maintenance and others providing a service at the site'essentially everybody but customers and first responders;
- **How to screen:** Ask 3 Yes/No questions: 1. Do you have COVID symptoms' 2. Have you traveled outside the province in the past 14 days' 3. Have you had recent exposure to somebody with COVID'
- **What to do:** Don't allow anyone who gives even a single YES answer enter the workplace. Instead, advise them to go home to self-isolate immediately and contact their healthcare provider to find out if they need to be tested for COVID. **Exception:** Don't deny entry to an essential worker **solely** because he/she traveled outside Canada if the trip was for a business purpose and

the worker has no COVID symptoms.

What to Do: Create a legally sound screening policy using the screening policy template on the OHSI website. And use the you can adapt for your own workplace; and use the screening form on the site perform and document your COVID screenings on workers and essential visitors.

2. Implement a Mandatory Face Mask Policy

Challenge: Once you let them into the building, you must ensure that everybody inside wears a proper mask or face covering when they can't keep the required 6 feet/2 meters of separation. Accordingly, masks aren't required for workers in single-occupant offices or workspaces, vehicles by themselves or other conditions or situations where they can maintain social distancing. You must also make exemptions for persons who:

- Have been advised by a medical professional not to wear a mask for health or safety reasons;
- Can't put on or take off the mask without help;
- Have problems wearing a mask due to physical or mental disabilities, such as persons with autism or the hearing-impaired who rely on facial and mouth movements to communicate;
- Use respiratory equipment or other PPE with which the mask would interfere; or
- Are babies or toddlers under 2-years-old.

What to Do: Create and implement a mandatory workplace face mask policy using the model on the OHSI website as a template.

3. Step Up Workplace Cleaning and Disinfection

Challenge: Normal cleaning and disinfection isn't enough to comply with COVID public health requirements. To avoid fines and risk of shutdown, you must implement special cleaning and disinfection measures to ensure the virus doesn't linger on surfaces, door knobs and other frequently touched objects.

What to Do: Designate a competent person to carry out an assessment of all the areas in your workplace, that may contain COVID transmission points including company vehicles, in consultation with the JHSC or safety representative. Then create a policy or protocol that includes a cleaning and disinfection schedule and health and safety guidelines that sets out the chemicals and PPE to use for each operation. Use the model on the OHSI website to create your own policy.

4. Perform Contact Tracing

Challenge: If one of your workers contracts COVID, you must notify all the other persons with whom he/she's recently had close contact, i.e., within 6 feet/2 meters, in the past 48 hours so they can self-isolate and get tested. But to do that, you must keep track of close contacts your workers experience while at work.

What to Do: While apps, wearables and other so high-tech 'contract tracing' solutions are capable of monitoring encounters in real time, they tend to be privacy-invasive, costly and cumbersome. A simpler low-tech solution is to use manual paper logs. **Strategy:** Have workers complete a log sheet of close or

dangerous contacts they had during their shift, including the name of the person and approximate duration of close contacts in minutes and seconds and submit it to a supervisor. Have the supervisor process the logs and total the cumulative minutes and seconds of close contact time to flag prolonged close contacts whom you'd have to notify if the worker contracts the virus. [Click here to find out more about how to respond to a COVID case at your workplace.](#)

5. Prepare for COVID Work Refusals

Challenge: Since the pandemic began, hundreds of workers across Canada have invoked their OHS work refusal rights due to COVID fears. Chances are, one or more of your own workers will do likewise.

What to Do: Although each case is different, there are some clear principles that apply to COVID work refusals that you should be aware of. It may also comfort you to know that the OHS officers that have been called on to apply these principles during the pandemic have ruled against the refusing worker in almost every single case:

1. Fear of a contagious virus like COVID-19 can be grounds for a work refusal;
2. Work refusals aren't allowed for hazards that are a normal part of the job, which makes it difficult for healthcare workers to bring a refusal;
3. While catching COVID is a hazard, just being at work near other people isn't enough to justify a work refusal'the hazard must be 'undue';
4. As long as you follow the current COVID public health requirements, your workers will have hard a time persuading an OHS officer that they have a valid refusal;
5. One notable exception is workers that have asthma, weakened immunity systems or other physical problems or characteristics that make them more susceptible to infection. For such workers, simply being at work may pose an undue hazard, even if you take all the required public health measures.

The 3 Non-COVID To-Do's

While COVID has dampened new OHS lawmaking in 2020, it hasn't stopped it completely. Here are the things OHS directors should have on their to-do lists in anticipation of significant legal changes taking effect in 2021, especially those who work for federally regulated companies.

6. Revise Your Workplace Harassment and Violence Policies

Challenge: The new Bill C-65 OHS harassment and violence changes officially take effect on January 1, 2021. So, if your company is federally regulated, you may have a lot of work to do. But because it's so advanced, C-65 represents a best practice standard for workplace harassment and violence prevention for employers in all jurisdictions.

What to Do: Key components of the C-65 compliance checklist include:

- Performing and regularly reviewing a combined workplace harassment and violence hazard assessment;
- Creating a workplace harassment and violence prevention policy; and
- Creating new procedures for receiving, investigating and resolving complaints of workplace harassment and violence.

7. Revise Your Confined Spaces Policies

Challenge: Another significant federal OHS regulatory change taking effect on January 1, 2021 are the new requirements for confined spaces.

What to Do: There are 8 key requirements that federally regulated must be aware of prepared to comply with, including:

1. The new system classifying dangerous confined spaces as 'hazardous confined spaces' requiring more stringent safety measures;
2. The new requirements for identifying and inventorying confined spaces and hazardous confined spaces;
3. The new reinspection and hazard assessment requirements;
4. The increase in the minimum oxygen level for inside a confined space or hazardous confined space from 18% to 19.5%;
5. The new requirement to have emergency procedure for **all** hazardous confined spaces;
6. The strict new requirements for atmospheric monitoring;
7. The new duty to protect contractors' workers; and
8. The new requirements for confined spaces training records.

8. Review Your Substance Abuse and Drugs/Alcohol Testing Policies

Challenge: The litigation wars between employers and unions over workplace drugs and alcohol use and testing have heated up in the 2 years since Canada legalized recreational marijuana, resulting in a number of significant court rulings that have potentially game-changing effects.

What to Do: If you haven't done so recently, you need to review your substance and testing policies to ensure they're in line with current legal parameters. Here's a 3-step strategy:

1. Use the OHSI Scorecard to go to school on all of the key alcohol and drugs cases decided in the past 2 years;
2. Use the fitness for duty analysis to vet your current substance abuse policy and the OHSI template to revise it; and
3. Use the drug testing policy analysis to vet your testing policy and the OHSI policy template to revise it.