

COVID-19 Preparedness Plan and industry guidance FAQs

1. Which businesses need to develop a COVID-19 Preparedness Plan?

Executive Order 20-74 states that all non-critical sector businesses are required to have a COVID-19 Preparedness Plan before re-opening and all critical sector businesses are required to have a COVID-19 Preparedness Plan by June 29, 2020. In the executive order, “business” and “businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, nonprofit entities, and state, county and local governments. “Worker” and “workers” are broadly defined to include owners, proprietors, employees, contractors, vendors, volunteers and interns.

2. Are there recommendations for how to best read and apply the industry guidance?

To develop their plans, businesses must follow the general industry guidance if guidance has not been developed for their specific industry. If guidance has been developed for their specific industry, then the business must follow specific industry guidance. In certain instances, a business may be required to follow guidance developed for more than one industry. For example, a business that operates a venue with a restaurant, movie theater and bowling alley would need to follow the specific guidance that has been developed for each of those industries and the type of business.

A template has been prepared to assist businesses in developing a COVID-19 Preparedness Plan. The template aligns with the industry guidance that businesses are required to follow in developing their plans. A link to the template can be found under the General Industry tab and the tabs for specific industries. Supplementary information that may be helpful to businesses and organizations in developing their COVID-19 Preparedness Plans and “how to” information can be found at the end of each industry guidance document, at the end of the plan template and under each industry tab.

Your COVID-19 Preparedness Plan needs to include and describe how your business will implement the following components that apply to your business. The following components are included in the general industry guidance and at the beginning of each of the specific industry guidance document:

1. policies and procedures that assist in the identification of sick workers and ensure sick workers stay home;
2. implementation of engineering and administrative protocols for social distancing;
3. worker hygiene and source controls, including face coverings;
4. workplace building and ventilation protocols;
5. workplace cleaning and disinfecting protocols;
6. drop-off, pick-up and delivery protections and protocols; and
7. communications and training practices and protocols.

In addition to the above components, the plan needs to also include protections and protocols included in specific industry guidance, if your business is included in that industry and the components are applicable to your business’s operations. The additional specific industry protections and protocols guidance may include one or more of the following components depending on the specific industry:

1. additional protections and protocols for customers, clients, guests and visitors;
2. additional protections and protocols for face coverings and personal protective equipment (PPE);
3. additional protections and protocol for access and assignment;
4. additional protections and protocol for sanitation and hygiene;
5. additional protections and protocols for work clothes and handwashing;
6. additional protections and protocol for distancing and barriers;

7. additional protections and protocols for managing occupancy;
8. additional protocols to limit face-to-face interaction;
9. additional protections for receiving or exchanging payment; and
10. additional protections and protocols for certain types of businesses within an industry.

3. How do I know which portions of the guidance are required and which are suggestions?

The provisions of the guidance that direct the business to act in a particular manner or that use the terms “ensure,” “prohibit” or “must” are provisions that are required. The provisions of the guidance that use terms such as “encouraged” and “consider” are recommendations. Where the provisions of the guidance use the terms “if possible,” “wherever possible” or “whenever possible,” the action is required if it is possible for the business to do so. For all guidance, if a provision is not applicable to the business’s operations, then the action is not required for that business. For example, if all of a business’s operations are performed outdoors, then the ventilation provisions would not apply to that business or, if the business has only one work crew, then assigning workers to the same work crew would not apply to that business. If businesses have questions about what is required and what is recommended, they are encouraged to contact Minnesota OSHA (MNOSHA) Workplace Safety Consultation.

4. What is the penalty for a business that does not establish a COVID-19 Preparedness Plan as required? How will the requirement be enforced?

Executive Order 20-74 states that all non-critical sector businesses are required to have a COVID-19 Preparedness Plan before re-opening and all critical sector businesses are required to have a COVID-19 Preparedness Plan by June 29, 2020. All businesses in Minnesota are encouraged to voluntarily comply with executive orders, including the requirement to have a COVID-19 Preparedness Plan. If a business does not comply with the requirement to develop and implement a COVID-19 Preparedness Plan, there are a number of different means for enforcement.

Enforcement authority and penalties are set forth in Executive Order 20-74 as follows.

- Pursuant to Minnesota Statutes 2019, section 12.45, an individual who willfully violates an executive order is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed \$1,000 or by imprisonment for not more than 90 days.
- Any business owner, manager or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers or interns to violate this executive order is guilty of a gross misdemeanor and upon conviction must be punished by a fine not to exceed \$3,000 or by imprisonment for not more than a year.
- In addition to those criminal penalties, the attorney general, as well as city and county attorneys, may seek any civil relief available pursuant to Minnesota Statutes 2019, section 8.31, for violations of this executive order, including civil penalties up to \$25,000 per occurrence from businesses and injunctive relief.
- State and local licensing and regulatory entities that inspect businesses for compliance with rules and codes to protect the public can assess regulated businesses’ compliance with executive orders and can use existing enforcement tools to bring businesses into compliance.

Under existing law, MNOSHA Compliance has the authority to enforce MNOSHA standards and Minnesota Department of Health (MDH) and Centers for Disease Control and Prevention (CDC) guidelines as applied to workers, including social distancing and hygiene practices. MNOSHA Compliance may issue citations, civil penalties or closure orders to places of employment with unsafe or unhealthy conditions, and MNOSHA Compliance may penalize businesses that retaliate against employees who raise safety and health concerns.

Executive Order 20-54 provides that an employer’s failure to develop or implement a COVID-19 Preparedness Plan is an example of an adverse work condition that, pursuant to Minnesota Statutes 2019, section 268.095, may qualify an

employee who quits for unemployment insurance benefits. This would apply in a situation where a worker quits their employment because the employer has failed to develop or implement a COVID-19 Preparedness Plan, if the worker has complained to the employer about such adverse work condition and has given the employer a reasonable opportunity to correct such adverse work condition, to no avail.

5. Do I need to submit my COVID-19 Preparedness Plan for approval?

No, COVID-19 Preparedness Plans do not need to be submitted to the state for approval. COVID-19 Preparedness Plans must be communicated to workers and workers must be provided with necessary training to implement the plan. Plans must also be posted at businesses' workplaces or worksites or may be posted electronically for workers who have means to access the electronic posting.

6. Can someone help me with questions related to the development of my COVID-19 Preparedness Plan?

Yes, businesses are encouraged to contact MNOSHA Workplace Safety Consultation for assistance or questions related to the development of a COVID-19 Preparedness Plan at 651-284-5060, 800-657-3776 or osha.consultation@state.mn.us.

7. Does the industry guidance limit the number of people who can be in a work meeting or training?

Collective gatherings of workers are limited to numbers that allow for social distancing to be maintained. This applies to gatherings for training, meetings and breaks. Cloth face coverings are strongly encouraged even when social distancing is possible, especially where workers would be in an indoor, confined space for a long duration of time.

8. How do the COVID-19 Preparedness Plans and industry guidance affect union access to worksites?

Industry guidance does not limit and an employer may not use its COVID-19 Preparedness Plan to limit union access rights provided in state and federal law or as provided in a collective bargaining agreement. Union representatives may be required to comply with health screening and other COVID-19 mitigation measures outlined in the industry guidance and COVID-19 Preparedness Plans that are applicable to workers entering a worksite.