

Puerto Rico Secretary of Labor issues guidance pertaining to adoption of exposure control plans by employers

On April 15, 2020, the Secretary of the Puerto Rico Department of Labor and Human Resources issued guidelines to employers regarding Exposure Control Plans. In general terms, the letter discusses the basic elements that every employer's Exposure Control Plan should include, especially in the context of the current COVID-19 emergency. Please find below a brief summary of the most important provisions of the letter.

The Puerto Rico Occupational Safety and Health Act, Act. No. 16 of August 5, 1975, as amended, requires every employer to provide a safe and healthy workplace for all its employees. Due to the ongoing public health emergency, it is crucial that all employers ensure that their employees work in a safe and healthy place.

Under the Occupational Safety and Health Administration ("OSHA"), every employer is responsible for conducting risk assessments at their workplaces and establishing appropriate risk controls. Once the risk analysis has been performed, it is the employer's responsibility to implement the controls following the established OSHA hierarchy of controls. Due to the pandemic, the Secretary recognizes that eliminating the present risk and substituting the risk is difficult; therefore, she recommends reinforcing other controls, such as: Engineering Controls, Administrative Controls and Personal Protective Equipment. In this regard, the Secretary recommends employers use physical barriers, that employees maintain at least six feet of distance between them, the implementation of cleaning and disinfecting work areas schedule, the restriction and limitation of people in the workplace and the requirement of constant hand washing. Lastly, and depending on the circumstances and the nature of work in the workplace, the Secretary recommends the training of personnel on the correct use and disposal of Personal Protective Equipment.

To guarantee the safety and health of its employees, every employer must develop and implement a contingency plan that complies with the following elements:

- a) Must be written and pertinent to the specific circumstances and characteristics of the workplace, including the particular tasks, the physical structure, and the staff.
- b) Must include general information on COVID-19, including definitions, contagion methods, symptoms, and recommendations issued by local, national and international Health Agencies regarding controls to avoid the spread of COVID-19.
- c) Must detail the process of monitoring and screening of staff prior to entry to the workplace and detail the procedures to follow in case of detection of an employee with symptoms or with a positive result.
- d) Must indicate the number of employees designated to work per day, if they will be working rotating shifts (please note that work with small staff numbers is recommended), and the control measures that will be taken to achieve the distance between employees.
- e) Must include the methods that are being implemented for cleaning and disinfecting the workplace, including an inventory of the cleaning and disinfection products to be used by



the maintenance personnel and the frequency of cleaning and disinfection of the work areas.

- f) Must detail the hygiene methods for employees, such as the areas designated for hand washing, use and distribution (by the employer) of “hand sanitizer”, alcohol, antibacterial soap, etc.
- g) Must indicate and provide evidence of personal protective equipment necessary for employees –to be provided free of cost by the employer– for example, type of equipment, amounts available, etc.
- h) Must provide evidence of training to employees, in the proper use, limitation and disposal of the personal protective equipment.
- i) Must include the person designated to constantly evaluate the work areas in order to monitor the development of new risk areas and needs in relation to the COVID-19 pandemic.
- j) Must include evidence of the discussion of the plan with staff.

In addition to the contingency plan for the employee protection of COVID-19 in the workplace, employers should seriously consider the effects on the indoor air quality of buildings that have been closed or partially operational for long periods of time. In this regard, the Secretary invites employers to follow the recommendations for maintaining good and healthy indoor air quality, as established by the American Industrial Hygiene Association.

In the purpose of safeguarding the safety and health of employees and ensuring compliance with all their responsibilities under the Occupational Safety and Health Act, the Secretary urges employers to comply with the recommendations provided.

Should you have any questions or require additional information, please do not hesitate to reach out to us at your earliest convenience.