

FROM CITATIONS ISSUED ON 1-14-2022 THE DAY AFTER THE U.S. SUPREME COURT'S 1-13-2022 DECISION:

Manufacturing facility (300 employees), small town (17,000 pop.) in the Midwest.

Citation 1 Item 1 Type of Violation: **Serious**

OSH ACT of 1970 Section (5)(a)(1) **[GENERAL DUTY CLAUSE]**: Section 5(a)(1) of the Occupational Safety and Health Act: The employer **[ALLEGED BY OSHA]** did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were not protected from the hazard of contracting the virus, SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), the cause of the COVID-19 disease.

a. The employer **[ALLEGEDLY]** did not enforce the employer developed COVID-19 prevention policy of wearing face coverings within the facility. Employees worked and congregated in close proximity without face coverings or without wearing face coverings over nose and mouth, as recommended by the Centers for Disease Control and Prevention (CDC), leading to exposures among unvaccinated employees. The employer failed to take immediate and effective steps to identify, inform, and remove all potentially exposed employees in the days thereafter. From July 28, 2021, through August 31, 2021, a total of eighty-eight (88) employees tested COVID-19 positive in the establishment and one employee died of COVID-19 complications.

Among other methods, feasible and acceptable means of abatement for this hazard include **[OSHA'S STATEMENT OF ALLEGEDLY FEASIBLE ABATEMENT MEASURES]**:

- 1. Periodically review the COVID-19 disease rates in the community** and conduct a hazard assessment to identify employee practices and workplace behaviors that could increase risks for COVID-19 transmission, and update control measure of implement new ones as needed.
- 2. Re-evaluate existing COVID-19 company procedures and retrain workforce** as necessary on an updates (e.g. due to COVID-19 variants) are necessary or when deficiencies in the program are noticed.

3. **Implement contact tracing** to ensure that employees who have worked near someone who tested positive for COVID-19, and/or develop symptoms of COVID-19 are informed of their potential exposure to the virus, encouraged to quarantine, and excluded from the facility until they meet the conditions to return to work per the CDC guidelines.

4. **Screen employee(s) for COVID-19 symptoms and potential COVID-19 exposure.** Employees who appear to have symptoms upon arrival at work or who become sick during the day must immediately be separated from other employees, customers, and visitors; sent home; and encouraged to seek medical attention. Have a procedure in place for the safe isolation of employees who become sick while at work as they may need to be transported home or to a healthcare provider. Utilize, develop, and implement flexible sick leave and supportive policies and practices.

5. **Follow and implement guidelines from the CDC, other federal agencies (e.g., Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security (CISC)), and State and Municipal public health recommendations for exposed employees (close contacts) to quarantine, telework if possible, and self-monitor for symptoms.**

6. **Enforce physical distancing measures to ensure** that everyone (especially asymptomatic positive employees) in the workplace maintains at least six feet of distance. **Install transparent, impermeable barriers** at locations where physical distancing is not possible. Provide and **require workers to wear face coverings or surgical masks,** as appropriate, unless their work task requires a respirator or other PPE.

7. **Facilitate employees getting vaccinated by granting paid time off for employees to get vaccinated and recover from any side effects.** Vaccination is the key element in a multi-layered approach to protect workers. Vaccines authorized by the U.S. Food and Drug Administration are highly effective at protecting vaccinated people against asymptomatic and severe COVID-19 illness and death.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

January 27, 2022

Proposed Penalty:

\$13,653.00