

EPA Publishes Best Practices for Indoor Air Quality in Combating COVID-19

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The U.S. Environmental Protection Agency (EPA) has released new guidance on best practices to improve indoor air quality (IAQ) as part of the administration's overall pandemic response plan for combating COVID-19.

Called the "[Clean Air in Buildings Challenge](#)," the guidance advises, "[b]uilding owners and operators should engage experts, facilities managers, and others who are skilled, trained, and/or certified in HVAC work to develop and implement plans to improve IAQ and manage air flows."

Recommended Best Practices

The guidance outlines the steps building owners and operators should take:

1. Create an action plan for clean indoor air in buildings that assesses indoor air quality, plans for upgrades and improvements, and includes HVAC inspections and maintenance. This involves first determining how clean outdoor air is brought into the building and distributed to all occupied spaces and understanding and documenting how the building's HVAC systems work. The guidance recommends working with an HVAC expert to assess and inspect systems for ventilation, filtration, and air cleaning. The assessment should determine whether carbon dioxide monitors are needed, determine how much clean air (outdoor air + filtered HVAC recirculation air) is needed, measure air delivery for each room or space, and determine whether particular spaces need a different direction of air flow. Building owners or operators should have an HVAC expert verify the system is working properly through testing and create a preventive maintenance schedule, including filter replacements and upgrades or improvements as needed.
2. Optimize fresh air ventilation by bringing in and circulating clean outdoor air indoors. Ensure outdoor air is acceptably clean or is adequately filtered as it is brought into the building, run HVAC systems during all hours when the building is occupied and even for an hour or two after the building when the building is unoccupied to circulate fresh air, ensure exhaust fans in bathrooms are functioning and running when the building is occupied, increase the volume of clean, outdoor air at times of higher risk (*e.g.*, at times of elevated risk of COVID-19), adjust HVAC settings while considering thermal comfort, humidity, outdoor air quality, and energy use, and, as much as possible, enable cross ventilation by opening windows and doors at opposite sides of the room or building.
3. Enhance air filtration and cleaning using the central HVAC system and in-room air cleaning devices by installing MERV-13 air filters or the highest rated MERV filters the HVAC system can accommodate. Use portable air cleaners and consider using an upper room Ultraviolet Germicidal Irradiation system.
4. Communicate with building occupants to increase awareness about IAQ, commitment to improving IAQ, and solicit feedback and suggestions from building tenants.

According to the EPA, implementing these measures can reduce the risk of exposure to particles, aerosols, and other contaminants and improve the health of building occupants.

OSHA

Throughout the pandemic, the Occupational Safety and Health Administration (OSHA) has provided [guidance for mitigating COVID-19 in the workplace](#), which has included assessing, improving, and regularly maintaining HVAC systems. OSHA last updated its guidance on August 13, 2021. The OSHA website now states that the guidance will be updated soon.

In what is known in the safety world as the hierarchy of controls for managing safety and health hazards, engineering controls (such as ventilation systems) are the next best mitigation strategy if elimination or substitution of the hazard cannot be achieved.

The new EPA guidance is couched as a strategy for combatting COVID-19 and focuses on an engineering control that should exist in every building. It is not yet known how OSHA will view the EPA guidance. Given the importance of engineering controls to mitigating workplace safety and health hazards, OSHA may seek to rely on the EPA guidance for “industry knowledge” to support a violation under Occupational Safety and Health Act (OSH Act) 5(a)(1) general duty clause for any employer that is not attempting to mitigate COVID-19 by at least assessing its HVAC system. Earlier this year, the U.S. Supreme Court [blocked](#) the agency’s COVID-19 Vaccine-or-Test Emergency Temporary Standard and, in doing so, stated that, for most industries, COVID-19 is not an occupational hazard. As an agency whose mission is to help ensure the safety and health of workers, it is unsurprising that OSHA views that decision narrowly and does not read it to restrict its authority to enforce alleged COVID-19 violations under the general duty clause of the OSH Act.

Employers will have to watch closely for new and updated guidance from OSHA to align with other federal agency guidance on COVID-19 (such as from the Centers for Disease Control and Prevention and EPA).

If you have any workplace safety and health questions or need assistance with any other OSHA matters, please reach out to the Jackson Lewis attorney with whom you regularly work or any member of our [Workplace Safety and Health Practice Group](#).

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