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## Mexico: Work Centers Ordered to Close? – Part 3

**Legal Update**

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On March 25, 2020, and April 2, 2020, we published articles about different accords issued by Mexico's Ministry of Health ordering the suspension of all non-essential activities. Mexico's Ministry of Labor announced that it will start inspecting businesses to verify compliance with the Ministry of Health's stay-at-home order. The Ministry of Labor will inspect businesses when it has information they are in breach of labor regulations or when a claim is filed by employees that working conditions put their health at risk due to exposure to COVID-19.

The inspections will make two determinations. First, whether the business is essential. If the inspection determines the business is not essential, the inspector will likely ask the business to shut down immediately and send home all employees. If the nature of the business prevents certain areas or activities from being stopped immediately, the inspector will request further instructions from her superiors. If the employer refuses to suspend activities, the inspector will report this circumstance to the Federal Labor Representation Office which will file a criminal complaint with the corresponding District Attorney for violations to the Ministry of Health's stay-at-home order.

If the inspection determines that the business is essential, the inspector will verify that the business is complying with all the additional measures stated in the stay-at-home order. This includes verifying that the business avoids meetings or congregations of more than 50 people, observes social distancing and ensures that employees over 60 years old or that are part of the high-risk groups stay home.

Businesses that remain open because they claim to be essential should prepare a document that outlines why they qualify as an essential business. This document should identify the sections within the accord published by the Ministry of Health on March 31, 2020, that make the activities of the business essential.

Also, Mexico's Ministry of Labor has issued guidelines for the inspections. Section VII of the guidelines lists the documents that may be requested during the inspection and the questions that may be asked about the business' production process. Businesses must be prepared to produce all the documents and to address all the

questions about their production process listed in Section VII of the guidelines.

On a separate, but related, note, representatives of labor boards in a few states in Mexico have informally confirmed that the labor boards will honor the agreements reached between businesses that shut down voluntarily and their employees, even if they were not previously approved by the corresponding labor board. This likely means that businesses that reach an agreement with their employees to pay less than 100 percent of salaries and benefits, but at least an equivalent of one minimum salary per day, can pay the agreed amounts and should be fine in the event of future challenges.

COVID-19 Mexico FAQ