

OSHA Issues its Emergency COVID-19 Standard

Labor & Employment Law Update

By Matthew Horn on June 10, 2021



On June 10, OSHA issued its long-promised **COVID-19 Emergency Temporary Standard (ETS)**. Surprisingly, the ETS relates only to the health care industry, but updated guidance has been issued for all other industries, as outlined below:

Non-Health Care Industries:

For non-health care industries, including manufacturing and construction, OSHA only intends to continue issue *guidance* relating to

COVID-19, including **updated guidance** on complying with the CDC's latest recommendations. Notably, the updated guidance exempts fully vaccinated workers from wearing masks, distancing, and barrier requirements when in areas where there is no reasonable expectation that any person will be present with suspected or confirmed cases of COVID-19.

Health Care Industry: The ETS applies strictly to the health care industry, and focuses on health care workers most likely to have contact with someone infected with the virus, including employees in hospitals, nursing homes, and assisted living facilities; emergency responders; home health care workers; and employees in ambulatory care settings—where suspected or confirmed COVID-19 patients are treated.

The ETS largely requires these facilities to continue to comply with precautions already in place, codifying well-known requirements such as conducting a hazard assessment, adopting a written COVID-19 plan, providing employees with PPE and respirators as appropriate, distancing, erecting barriers, screening entrants for COVID-19, disinfecting and sanitizing exposed areas, and others. The ETS does add a few new requirements, however, requiring employers to prepare a "COVID-19 log" listing all employee cases of COVID-19 and provide workers with

paid time off to get vaccinated and recover from any side effects. Covered employees who have COVID-19 or who may be contagious must also be required to work remotely or quarantine, being provided paid time off, up to \$1,400 per week. For most employers with fewer than 500 employees, these costs may be reimbursed through the provisions of the American Rescue Plan.

Notably, we expect OSHA to use the ETS – and the pandemic itself – as part of its on-going effort to unionize more employers in the health care industry.

OSHA Issues its Emergency COVID-19 S- tandard