

OSHA Will Issue Emergency Temporary Standard

The standard applies only to the health care industry

By Allen Smith, J.D., and Lisa Nagele-Piazza, J.D., SHRM-SCP

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The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) will issue its long-awaited COVID-19 emergency temporary standard today, said Secretary of Labor Marty Walsh during testimony before a House of Representatives committee yesterday. The standard will apply only to the health care industry with nonbinding guidance for other employers expected.

We've gathered articles on the emergency temporary standard from *SHRM Online* and other trusted sources.

Lawmakers Debated Need for Standard

Some members of Congress had urged the administration to move forward with the emergency temporary standard, even though the effects of the pandemic are lifting. "The Biden administration must immediately follow through on its promise to issue an enforceable workplace safety standard and clearly articulate its strategy to protect workers," said Rep. Bobby Scott, D-Va., on May 18. "With vaccination rates among working-age Americans below 50 percent, and vaccination rates for Black and Brown people lagging far behind the overall population, these workers are raising legitimate questions about what the administration is doing to make workplaces safer for those who have already suffered the greatest harm."

Other lawmakers, however, called the rulemaking "ill-advised and unnecessary." Rep. Virginia Foxx, R-N.C., and other members of Congress sent a letter to Walsh urging him to halt the final rule. "We do so in light of the current state of the COVID-19 pandemic, Centers for Disease Control and Prevention (CDC) guidance for fully vaccinated individuals, numerous state actions relaxing restrictions on nonessential businesses and pro-active actions by businesses around the country to limit workplace exposure to COVID-19 since the start of the pandemic."

(Congressman Bobby Scott (<https://bobbyscott.house.gov/media-center/press-releases/scott-to-biden-administration-the-honor-system-does-not-protect-workers>)) and (Committee on Education & Labor Republicans (https://republicans-edlabor.house.gov/uploadedfiles/05.24.21_osha_ets_letter.pdf))

CDC Relaxes Mask and Social-Distancing Guidelines

The CDC recently relaxed (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/Workplace-Experts-Advise-Caution-as-CDC-Lifts-Mask-Recommendations.aspx) many of its COVID-19 safety recommendations by saying that fully vaccinated people no longer need to wear masks in many settings, though exceptions apply in some circumstances. Employers should note that employees and customers will still need to follow the COVID-19 safety rules set by state and local governments and individual businesses.

OSHA said it is reviewing the CDC's guidance and will update its materials accordingly. "Until those updates are complete, please refer to the CDC guidance (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>) for information on measures appropriate to protect fully vaccinated workers," OSHA said on its website (<https://www.osha.gov/coronavirus/safework>).

(*SHRM Online* (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/Managing-Workplace-Mask-Requirements-as-Restrictions-Are-Lifted.aspx))

OSHA Issues COVID-19 Worker Safety Guidance

Employers should review OSHA's existing standards, which cover pandemic-related safety risks. Under the Occupational Safety and Health Act's general duty clause, all employers must provide a work environment that is "free from recognized hazards that are causing or are likely to cause death or serious physical harm."

Additionally, on Jan. 29, OSHA issued worker safety guidance for coronavirus protection programs, requiring greater input from employees and enhanced mask protections. Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace (<https://www.osha.gov/coronavirus/safework>) updates recommendations and outlines existing safety and health standards. The guidance emphasizes employees' roles and rights.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-oshaworker-safety-guidance.aspx))

OSHA Targets COVID-19-Related Workplace Retaliation

Even without an emergency temporary standard that applies broadly, OSHA is going after employers that retaliate against workers who raise COVID-19 concerns. As a result, employers should strive to ensure that their policies address workplace safety and health issues, and that managers are properly trained on those policies.

On March 12, OSHA issued a National Emphasis Program targeting specific high-hazard industries or activities in which there is a risk of contracting the virus causing COVID-19. The Occupational Safety and Health Act prohibits employers from retaliating against employees because they report unsafe and unhealthy work conditions, whether internally or to OSHA.

(*SHRM Online* ([www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-osharetaliation-covid-19-concerns.aspx?](http://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-osharetaliation-covid-19-concerns.aspx?utm_source=marketo&utm_medium=email&utm_campaign=editorial)

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