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Biden orders OSHA to issue new COVID-19 guidance to employers

By Benjamin Kim, Andrea Chavez, and Shelagh Michaud

On January 21, 2021, President Biden signed an [executive order](#) (the “Order”) requiring the federal Occupational Safety and Health Administration (“OSHA”) to release new guidance to employers on protecting workers from COVID-19.

Specifically, the Order states that the Secretary of Labor must:

- issue, within two (2) weeks of the date of the Order, revised guidance to employers on workplace safety during the COVID-19 pandemic;
- consider whether any emergency temporary standards on COVID-19, including requiring masks in the workplace, are necessary, and if such standards are determined to be necessary, issue them by March 15, 2021;
- review the enforcement efforts of federal OSHA related to COVID-19 and identify any short-, medium-, and long-term changes that could be made to better protect workers and ensure equity in enforcement;
- launch a national program to focus federal OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles; and
- coordinate with the Department of Labor’s Office of Public Affairs and Office of Public Engagement and all regional OSHA offices to conduct a multilingual outreach campaign.

The Order further instructs the Secretary of Labor to coordinate with state OSHA plans, state and local governments, and various federal agencies to ensure that workers covered by such plans are adequately protected from COVID-19.

Looking forward

To date, federal OSHA has not issued COVID-19 specific regulations, but it has issued some guidance to employers on workplace safety issues involving COVID-19. Currently, federal OSHA has not promulgated any general workplace requirements aimed at mitigating the spread of COVID-19. Some states like California, Michigan, Oregon, Washington, and Virginia, however,

have passed state specific OSH regulations to address workplace issues during the COVID-19 pandemic. Given the new administrations' focus on combating the spread of COVID-19 and specifically on its decision to issue the Order to ramp up federal OSHA's promulgation of guidance and requirements and on enforcement, employers should follow the developing news on the issuance of federal OSHA guidance closely, as these changes may mean they need to draft or revise Infectious Disease Preparedness and Response Plans, train their employees, and be prepared for more federal OSHA enforcement quickly.

To learn more about what to expect from OSHA regarding COVID-19, please register for our webinar "[What to Expect for 2021—Occupational Safety & Health \(OSH\) & COVID-19](#)" on February 2, 2021, at 10:30 a.m. PST (1:30 p.m. EST).

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