

Federal Law Alerts - November – December 15

## **CDC, COVID-19, and Options to Reduce Quarantine**

On December 2, 2020, the U.S. Centers for Disease Control (CDC) updated its COVID-19 [quarantine options](#) by suggesting quarantine periods shorter than 14-days. This is because a 14-day quarantine can impose personal burdens that may affect physical and mental health as well as cause economic hardship that may reduce compliance. Therefore, based on local circumstances and resources, the CDC offers the following options as acceptable alternatives to shorten quarantine:

- Quarantine can end after ten days without testing and if no symptoms have been reported during daily monitoring.
- When diagnostic testing resources are sufficient and available, then quarantine can end after seven days if a diagnostic specimen tests negative and if no symptoms were reported during daily monitoring. The specimen may be collected and tested 48 hours before ending quarantine (for instance, in anticipation of testing delays) but quarantine cannot end earlier than after seven days.

## **New Opinion Letters Addressing FLSA**

On November 30, 2020, the U.S. Department of Labor (DOL) released the following new opinion letters addressing Fair Labor Standards Act (FLSA) compliance:

- [FLSA2020-17](#): Addressing whether an employee's regular rate of pay, who is paid on a piece-rate basis, may be calculated by dividing total earnings by the number of productive and nonproductive hours worked during the workweek in the absence of a specific agreement with the employee to use such calculation.
- [FLSA2020-18](#): Addressing whether insect farming qualifies as agriculture under the FLSA and whether certain workers employed by an insect farming operation may be exempt from overtime pay requirements.

An opinion letter is an official, written opinion by the DOL's Wage and Hour Division (WHD) on how a particular law applies in specific circumstances presented by the person or entity that requested the letter.

## **EEOC Updates Employment of Veterans with Disabilities Guidance**

On November 27, 2020, the U.S. Equal Employment Opportunity Commission announced its revisions of the following [publications](#):

- [EEOC Efforts for Veterans with Disabilities](#)
- [Understanding Your Employment Rights Under the Americans with Disabilities Act: A Guide for Veterans](#)
- [Veterans and the Americans with Disabilities Act: A Guide for Employers](#)

These publications discuss how the Americans with Disabilities Act and the Uniformed Services Employment and Reemployment Rights Act apply to veteran employees and those who employ them. The revisions correct references and links for organizations serving veterans, provide recent data about employment discrimination claims brought by veterans, and have other minor updates.

## **Form I-9 Flexibility Extended to December 31, 2020**

On November 18, 2020, the U.S. Immigration and Customs Enforcement (ICE) announced another [extension](#) to the Employment Eligibility Verification (Form I-9) flexibility rule, which was extended to December 31, 2020, because of COVID-19 and the need for precautions. This flexibility rule, applicable only to remote workplaces, defers the physical presence requirement for in-person verification of the Form I-9 identity and employment eligibility documentation. However, the flexibility rule does not apply if there are employees physically present at the workplace. If there are employees physically present, then an employer must verify their Form I-9 identity and employment eligibility documentation in-person.

On March 19, 2020, the DHS first [announced](#) that the physical presence requirements were deferred due to COVID-19. The [DHS](#) and [ICE](#) websites provide additional updates about when the extensions will end and when normal operations will resume.