

Federal Law Alerts – June - July 15th

OSHA's National Emphasis Program for COVID-19 Revised and Interim Enforcement Response Plan Updated

On July 8, 2021, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) announced that it revised its [National Emphasis Program](#) (NEP) for COVID-19. OSHA launched the NEP on March 12, 2021, to focus on companies with the largest number of workers at serious risk of contracting COVID-19 and on employers that retaliate against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Occupational Safety and Health Act.

The revised [NEP](#):

- Adjusts the targeted industries to those most at risk for COVID-19 exposure, but still includes healthcare and non-healthcare, such as meat and poultry processing; and
- Removes an appendix that provided a list of Secondary Target Industries for the former COVID-19 NEP.

For inspections in healthcare, the revised NEP refers compliance safety and health officers (CSHOs) to the new directive, [Inspection Procedures for the COVID-19 Emergency Temporary Standard](#), issued on June 28, 2021.

Inspections in non-healthcare establishments will follow procedures outlined in [the Updated Interim Enforcement Response Plan](#) (IERP) published July 7, 2021, it replaces the March 12, 2021 memorandum, and the updates include:

- Enforcing protections for workers in non-healthcare industries who are unvaccinated or not fully vaccinated;
- Where respirator supplies and services are readily available, OSHA will stop exercising enforcement discretion for temporary noncompliance with the Respiratory Protection standard based on employers' claims of supply shortages due to the COVID-19 pandemic;
- OSHA will no longer exercise enforcement discretion for the same requirements in other health standards, where full compliance may have been difficult for some non-healthcare employers due to the COVID-19 pandemic;
- Updated instructions and guidance for OSHA area offices and CSHOs for handling COVID-19-related complaints, referrals and severe illness reports;
- Ensuring workers are protected from retaliation; and
- References to the revised NEP for COVID-19.

The IERPs goals are to identify exposures to COVID-19 hazards, ensure appropriate control measures are implemented, and address violations of OSHA standards (other than the ETS) and the General Duty Clause. The updated IERP will remain in effect until further notice and is intended to be time-limited to the current COVID-19 public health crisis. The ETS became effective June 21, 2021. Healthcare employers must comply with most provisions by July 6, 2021, and with training, ventilation, and barrier provisions by July 21, 2021.