

OSHA's New Guidance for the Energy Arena

Gray Reed Legal Alert

By Chance K. Decker, Marcus Fettinger

The Occupational Safety and Health Administration (OSHA) recently issued guidance for oil and gas industry workers and employers in light of the increased risk of workplace exposure to COVID-19. While these guidelines are similar to other governmental guidance on workplace safety, this new guidance is specific to the oil and gas industry and its unique challenges. The OSHA guidance is available here.

In the new guidance, OSHA recommends that employers immediately conduct a hazard assessment (sometimes called a job hazard analysis) to determine whether job duties and activities require employees or visitors to come within six feet of one another. If an employer determines that close contact is required, OSHA advises employers to consider delaying those activities until they can be performed safely or implement additional safety measures. Once risks are identified in this analysis, employers should follow OSHA's new guidance to minimize employees' risk of being exposed to COVID.

In that regard, OSHA provides three categories of workplace safety measures for employers to follow to assist with safe operation during the COVID-19 outbreak. Those categories are: (1) engineering controls; (2) administrative controls; and (3) safe workplace practices.

Engineering Controls

At its core, the engineering controls guidance urges employers to modify its production practices to ensure social distancing among the workforce. OSHA provides specific examples of steps employers should take to maintain employee social distancing. For example, OSHA recommends:

- Reconfiguring communal workspaces so that workers are spaced six feet apart;
- Modifying the alignment of workstations (e.g. control panel and boards) so that employees can communicate with one another from a safe distance;
- Installing physical barriers such as curtains or plexiglass to separate workers;
- Providing workers with adequate ventilation in their workplaces; and
- Redirecting or removing fans which could spread respiratory particles between workers.

Notably, OSHA urges employers to take these steps only when doing so does not create additional safety hazards.

Administrative Controls

OSHA's administrative controls advise employers to take the following steps to promote proper social distancing:

- Stagger workers' arrival, departure and break times to avoid employees congregating in crowds;
- Encourage employees to move in a single-file line with six feet between one another;
- Provide floor markings and signs to remind workers to maintain social distancing at all times;
- Designate a safety officer to monitor and facilitate social distancing;
- Limit the number of employees in communal areas such as break rooms or control rooms;
- Limit meeting sizes and conduct meetings either outside or virtually;
- Encourage works to avoid carpooling to or from the jobsite; and
- Implement policies, procedures and training aimed at minimizing employees' risks of contracting or being exposed to COVID.

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From a facilities perspective, OSHA recommends that employers:

- Provide handwashing stations with single-use paper towels and hand sanitizer throughout the jobsite;
- Clean and disinfect shared equipment such as communications headsets, operating terminals and other routinely touched items between shifts;
- Provide disposable drinking cups, plates, bowls and plastic ware; and
- Remove shared condiments.

Safe Workplace Practices

OSHA's safe workplace practices guidance focuses on the use of personal protection equipment (PPE). The guidance recognizes that "[m]ost oil and gas workers in normal work environments are unlikely to need PPE beyond what they use to protect themselves during routine job tasks." Employers, however, should still require employees to wear face coverings while an employee is in a common area. Moreover, employers should analyze whether gloves or additional face protection is necessary when employees are required to be within six feet of each other while performing their job duties. Essentially, employers need to determine (through a hazard assessment) what PPE is needed to keep employees safe while not creating new dangers in the work environment (e.g. PPE limiting an employee's vision or potentially catching in machinery).

Takeaway for Employers

As a practical matter, some of these practices are not realistic on every jobsite, but employers should take all reasonable steps to conform their practices to the OSHA guidance. Critically, this will provide an employer with a defense to any workplace-related OSHA complaints or lawsuits.

ABOUT THE AUTHORS

Chance Decker, Partner

An aggressive and results-driven litigator, Chance Decker focuses on resolving high-stakes disputes for businesses in the oil and gas, pipe and steel distribution, construction and real estate industries. Chance also represents clients in a variety of employment litigation matters, including non-competition and trade secret disputes. Chance's relentless approach to problem-solving has led to favorable verdicts and settlements in litigation before state and federal courts all over Texas.

Marcus Fettinger, Partner

Marcus Fettinger is a management-side employment lawyer focused on using creative strategies to achieve his clients' goals. Whether they need immediate injunctive relief to protect their valuable trade secrets or long-term strategies to minimize potential liabilities down the road, Marcus is passionate about collaborating with his clients to develop custom solutions that get the best results possible. He also immerses himself in client relationships in a fun yet professional manner so he can understand each client's individual culture and plans for the future.

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