COVID-19 Webinar Series

Hot Topics “Grab Bag”

National Sea Grant Law Center
Informational Webinar
August 5, 2020
Webinar Overview

- Introduction & Background
- General Updates
- SBA Updates
- Workplace Safety Updates
- COVID-19 Litigation
- Q&A
Who We Are

- One of 34 Sea Grant Programs
- Based at the University of Mississippi School of Law
- Established to provide non-advocacy legal research, outreach, and education services to Sea Grant network.

http://nsglc.olemiss.edu/covid19
NSGLC Updates

- Don’t forget to follow us on Twitter and Facebook!
  - @SGLawCenter // facebook.com/nsglc

- New information on COVID-19 Resources webpage:
  - Quick Take Slide re: Temporary IRS Rule Regarding Employment Tax Credits

- New blog posts:
  - When Workers Are Required to Quarantine, Who Pays?
  - Dare County Settles Lawsuit with Non-resident Property Owners
  - Potential Workplace Spread of COVID-19: Could OSHA Be Liable?
Operators of U.S. whale watching boat, another vessel fined for violating Quarantine Act

A Washington town isolated from the U.S. is now cut off from Canada, too

COVID-19 border closures have curtailed the international routines of the tiny town of Point Roberts.

In Northern Maine, Canada Border Closure Cuts Off Economic Lifeblood

The temporary border closure led one northern Maine town to create its own emergency stimulus program in the wake of its international customer gap.

Blog post coming soon!
PPP Status

- July 22 Webinar on Loan Forgiveness and Tip Sheet at: http://nsglc.olemiss.edu/covid19/index.html
- Applications will be accepted until **August 8, 2020**.
  - SBA tool to help borrowers find a lender: https://www.sba.gov/funding-programs/loans/lender-match

  - Remaining funds = $128,230,770,853.
  - Arts, Entertainment, and Recreation: 125,777 loans totaling $8,089,594,232, 1.55% of all loans.
  - Agriculture, Forestry, Fishing and Hunting: 144,334 loans totaling $7,994,868,458, 1.53% of all loans.

- Independent contractors/self-employed loans after June 5, 2020 with 24-week covered period eligible for the 2.5 month equivalent of their 2019 compensation or $20,8333 (the 2.5 month equivalent of $100,000 per year).
  - Those with 8-week covered period eligible for the lesser of either 8/52 of 2019 compensation or $15,385 (the 8-week equivalent of $100,000 per year).
- Under SBA Rule, boat captains can include certain independent contractor crewmembers if they have not received their own PPP loan.
EIDL Status

- As a result of COVID-19, agricultural businesses with 500 or fewer employees are also eligible. Includes aquaculture.
- Loan details: Borrowers apply directly to SBA.
  - Traditionally EIDL loans are up to $2 million. SBA put in place a $150,000 limit for COVID-19 loans.
  - Interest rates: 3.75% for small businesses, 2.75% for non-profits.
  - Loan term is 30 years.
  - No payments for 12 months.
- The EIDL loan advance of up to $10,000 is no longer available.
- SBA July 26, 2020 Report: 2,985,286 COVID-19 related loans have been approved totaling $163,818,412,028.
- SBA has tried to streamline the application process. Loan application will require tax forms, personal financial statements, profit-loss statements, sales figures and other financial info to show the business has suffered economic injury due to COVID-19.
Workplace Safety Overview

- Employers have general responsibility to provide a safe workplace free from serious hazards.
  - OSHA has not established specific COVID-19 safety measures but is relying on general duty clause.

- Occupational Health and Safety Act covers most private sector employers and employees.
  - Term "employer" does not include the U.S., or any State or political subdivision of a State.
Employer Reporting Requirements

- Must report “any work-related” incident that results in, among other things, death or hospitalization.

- Injury or illness is considered work-related “if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness.” (29 C.F.R. 1904.5).
New OSHA Rule re Reporting & Privacy

- Workplace health complaints = Examination of records
- New rules regarding agency procedure in accessing and sharing employee medical records. (29 C.F.R. § 1913.10).
- Key provisions:
  - Transfer certain responsibilities from the Assistant Secretary to the OSHA Medical Records Officer.
  - Establishes new internal requirements for the access and safeguarding of personally identifiable employee medical information maintained in electronic form.
  - Streamlines procedures for the removal of medical records from a worksite while maintaining privacy protections.
Virginia Emergency Temporary Standards

- Va. Department of Labor and Industry’s Safety and Health Codes Board approved an emergency temporary standard (ETS) for COVID-19 went into effect on July 27th.
  - First mandatory standards in the country.
  - Apply to most private employers in Virginia and all state and local employees. Higher ed. institutions are in compliance if reopening plans certified by the Va. Council of Higher Education.

- Employers must:
  - Establish self-assessment and screening systems.
  - Establish procedures to prevent the spread of COVID-19 (PPE, social distancing).
  - Ensure employees known or suspected of having COVID-19 do not come to work and establish procedures for them to return to work.
  - Establish procedures for notifying employees, building owners, and other employers of workplace exposures to the virus and suspected or confirmed cases.
  - Employers with medium, high, and very high risk workplaces must provide COVID-19 training to employees within 30 days of the effective date. Lower risk places of employment must provide employees with basic written or oral information on COVID-19 hazards and measures to minimize exposure.

- Employers who fail to comply may be subject to fines of up to $13,494 for a “serious” violation and up to $134,937 for a “repeat” or “willful” violation.
Outreach, Education And Training For The COVID-19 Emergency Temporary Standard, 16VAC25-220

The Department of Labor and Industry's Virginia Occupational Safety and Health (VOSH) Program and the Virginia Safety and Health Codes Board have adopted an emergency temporary standard for:

Reporting COVID-19 positive cases: The 16 VAC 25-220-40.8.e of the Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 provides that "The employer shall notify the Virginia Department of Labor and Industry within 24 hours of the discovery of three (3) or more employees present at the place of employment within a 14-day period testing positive for SARS-CoV-2 virus during that 14-day time period." Employers may use contact information listed on our Report A Workplace Fatality, Severe Injury, Or Positive Coronavirus Case page.

Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220

| Publication Date | July 27, 2020 |
CFAP Updates

• Shellfish and seaweed are not eligible commodities (covered by NOAA Fishery Participant Fund distributed through state fishery commissions).

• Freshwater and marine finfish grown in a land-based system are eligible if USDA makes a determination that they meet the criteria (≥5% reduction in sales price between January 15 and April 15).
  • Industry had opportunity to submit information in June.
  • USDA added 42 commodities in early July, but still waiting for updates regarding seafood.

• Funding is first come, first serve.

• Deadline for applications is August 28.
FOR IMMEDIATE RELEASE

Man Indicted for COVID-19 Related Loan Fraud

NEWPORT NEWS, Va. – A federal grand jury returned an indictment today charging a Norfolk man with submitting fraudulent disaster-related loan applications in connection with the COVID-19 outbreak that resulted in the disbursement of over $190,000 in proceeds.

FOR IMMEDIATE RELEASE

Virginia Married Couple Arrested for COVID-Relief Loan Fraud

ALEXANDRIA, Va. – An Ashburn woman made her initial appearance in federal court this afternoon for conspiracy to commit wire fraud after allegedly submitting false loan applications in connection with the COVID-19 outbreak that resulted in the disbursement of over $1.4 million in proceeds under the Paycheck Protection Program (“PPP”).

Coronavirus Outbreak

One Borrower, Two Loans: Firms Cite Errors in U.S. Bailout Data

July 29, 2020, 7:00 AM
Ineligible Businesses
6,132 economic injury loans and 20,692 advance grants issued to ineligible businesses for more than $250 million.

Duplicate Loans
275 duplicate loans approved totaling $45.6 million.

Actions Needed
- Strengthen internal fraud controls.
- Create effective process for reporting fraud.
Workers sued for false imprisonment and failure to pay following enforcement of quarantine protocol.

- Workers were on their way to Naknek, AK to work at the Red Salmon Cannery for the summer salmon season.
- Workers were taken to Crown Plaza LAX for required COVID test. Three workers tested positive and all were told they had to quarantine at a hotel.
- Company paid for hotel room and food but did not pay wages during the quarantine period.

- Company settled last week for $500,000 dollars.
- Most of the workers are eligible to receive up to $2,685 if they sign a release negotiated with North Pacific.
Workers filed suit against OSHA arguing the agency failed to address “imminent dangers” at a meatpacking plant in PA.

- Claiming employer failed to provide PPE, properly implement social distancing, adequately inform workers of COVID-19 infections, etc.

OSHA filed motion to dismiss on July 28.

Courts usually defer to OSHA’s discretionary enforcement authority.
Questions?

Please type your question into the Chat window.

Contact Us

sshowalt@olemiss.edu