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# AFL-CIO Emergency Petition for Writ of Mandamus: U.S. Court of Appeals for the D.C. Circuit Addresses Request for OSHA COVID-19 Emergency Temporary Standard

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The United States Court of Appeals for the D.C. Circuit (“D.C. Circuit”) June 11th Order addressed a petition submitted by the American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”) related to COVID-19. See No. 20-1158.

The AFL-CIO submitted an emergency petition for a writ of mandamus (“Emergency Petition”) for an Occupational Safety and Health Administration (“OSHA”) emergency temporary standard (“ETS”).

The Emergency Petition is construed by the D.C. Court as a petition for review of OSHA’s denial of a March 6, 2020, administrative petition for an ETS related to COVID-19. The AFL-CIO challenged OSHA’s decision not to issue:

. . . an ETS to protect working people from occupational exposure to infectious disease including COVID-19.

The D.C. Circuit indicates that OSHA is authorized to issue an ETS if:

- It determines that “employees are exposed to grave danger” from a new hazard in the workplace, and
- An ETS is necessary to protect them from that danger

OSHA’s decision not to issue an ETS is noted to be entitled to “considerable deference.”

The D.C. Circuit concludes:

. . . in light of the unprecedented nature of the COVID-19 pandemic, as well as the regulatory tools that the OSHA has at its disposal to ensure that employers are maintaining hazard-free work environments. . . the OSHA reasonably determined that an ETS is not necessary at this time.

A copy of the Order can be downloaded [here](#).