

# OSHA Issues Immediately Effective COVID-19 National Enforcement Program and Updated Enforcement Guidance: No ETS Yet

## Client Alerts

March 15, 2021

On March 12, 2021, OSHA took two significant new actions to enhance its enforcement actions regarding COVID-19 workplace safety: (1) establishing the National Emphasis Program – COVID-19 (the NEP) targeting higher hazard industries for OSHA enforcement action; and (2) updating and replacing its former Interim Enforcement Response Plan for COVID-19 (the Enforcement Plan) to prioritize in-person worksite inspections by OSHA Compliance Safety and Health Officers (CSHO). This action is in response to President Biden’s January 21, 2021 *Executive Order on Protecting Worker Health and Safety*, in which he directed OSHA to “launch a national program to focus OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles.” Executive Order (EO) No. 13999, § 2(d), 86 FR 7211 (Jan. 26, 2021). Although the Executive Order (§ 2(b)) also required OSHA to consider whether to issue a COVID-19 Emergency Temporary Standard (ETS), and to do so by March 15, 2021 if determined necessary, these two new OSHA policy documents are *not* an ETS. Instead, OSHA has buried in the text of both the NEP and the Enforcement Plan that “in the event that” OSHA issues an ETS, the ETS will be used instead of a General Duty Clause violation as the basis for citations with respect to COVID-19 safety violations, which will be enforced through the new NEP and Enforcement Plan.

To view the full alert, [click here](#).

## Related Capabilities

COVID-19

ESG: Environmental, Social, and Governance

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