

OSHA COVID-19 Emergency Temporary Standard Only Applies to Healthcare Workers

By Jessica Summers

On Thursday, the Occupational Safety and Health Administration (OSHA) surprised everyone by announcing that its much anticipated COVID-19 Emergency Temporary Standard (ETS) will apply only to healthcare and healthcare support service workers.

The day after his Inauguration, President Biden issued an Executive Order on “Protecting Worker Health and Safety.” The Order, among other things, directed OSHA to “consider whether any emergency temporary standards on COVID-19, including with respect to masks in the workplace, are necessary, and if such standards are determined to be necessary, issue them by March 15, 2021.” OSHA missed its March 15 deadline and employers have been anxiously waiting to see what actions OSHA might take, particularly as the economy begins to reopen.

On Thursday, June 10, 2021, OSHA finally released its COVID-19 related ETS. To the surprise of many, the ETS (which spans over 900 pages) only applies to “settings where any employee provides healthcare services or healthcare support services.” For all other employers, OSHA simply updated its non-binding Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace.

OSHA estimates that 10.3 million workers will be covered by the new ETS. Businesses with workers in the healthcare sector will need to familiarize themselves with the new rules which among other things, requires the provision of specific types of PPE, establishes safety requirements for the physical workspace and requires that unvaccinated employees receive paid leave to get vaccinated and recover from any side effects. While impacted businesses may already be meeting many of the requirements of the ETS – now that these provisions are mandatory it will be important for these entities to make sure they are in full compliance.

This development is a relief for businesses that fall outside the scope of the new ETS. However, it is important that employers not let their guard down and ensure that, even if the ETS does not apply to them, are still complying with state and local requirements (many of which were developed in response to the fact that OSHA had not previously issued mandatory COVID-19 safety rules).