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OSHA Issues COVID-19 Health Care Emergency Temporary Standard

The Occupational Safety and Health Administration (OSHA) today issued an [emergency temporary standard](#) (ETS) for occupational exposure to COVID-19 that requires certain health care employers to help protect their workers in settings where suspected or confirmed COVID-19 patients are treated.

The ETS, an outcome of President Biden's January [Executive Order](#) on "Protecting Worker Health and Safety," requires covered health care employers to develop and implement a COVID-19 plan to identify and control COVID-19 hazards in the workplace. Covered employers also must implement other requirements to reduce transmission of COVID-19 in their workplaces, as described below. The standard also requires employers to provide reasonable time and paid leave for employee vaccinations and any side effects. Many of the requirements of the standard are things hospitals already have in place, such as a COVID-19 plan, patient screening and management, and physical barriers.

In addition, the standard exempts from coverage certain workplaces where all employees are fully vaccinated and individuals with possible COVID-19 are prohibited from entry. It also exempts from some of the requirements of the standard fully vaccinated employees in well-defined areas where there is no reasonable expectation that individuals with COVID-19 will be present.

The ETS, which was released as an interim final rule, is effective immediately upon publication in the Federal Register. Employers must comply with most provisions within 14 days of publication and with the remaining provisions within 30 days. OSHA notes that it will continue to monitor the COVID-19 infections and deaths as more of the workforce and the general population become vaccinated and will update the ETS as appropriate. Comments are due by 30 days after it is published in the Federal Register.

OSHA also [posted](#) related summaries, fact sheets, and compliance assistance materials and tools. The ETS incorporates by reference a number of consensus standards and evidence-based guidelines developed by the Centers for Disease Control and Prevention (CDC), the Environmental Protection Agency, and the American National Standards Institute.

AHA Take: In a [statement shared with the media today](#), AHA said, "For more than a year health care workers have battled COVID-19 and worked tirelessly and

courageously to care for COVID and non-COVID patients across the country. Their crucial life-saving role has never been more evident than during the course of this pandemic. The safety and protection of all health care workers remains a top priority. The AHA together with hospitals and health systems remains committed to following the science-based and sometimes quickly-evolving guidance issued by the CDC.

“Since the start of the pandemic hospitals and health systems have closely followed the science and the CDC recommendations on how to protect health care workers on the front lines and how to protect patients. While we are still reviewing the details of the emergency temporary standard, we appreciate that OSHA acknowledged the science by including CDC’s COVID-19 guidelines and recommendations. The emergency temporary standard provides flexibility to assess the various levels of risk in different parts of the hospital and use personal protective equipment, social distancing, and other protective measures depending on the assessed level of risk.

“Throughout the course of the pandemic hospitals have followed strict protocols to ensure the safety of frontline staff and patients. We know that those measures have kept health care workers safe as evident by a JAMA study that found that health care workers were more likely to catch COVID-19 in the community than from the workplace.

“Maintaining the health and safety of frontline workers is central to a successful response to the pandemic – and no one has a more vested interest in doing so than the nation’s hospitals.”

Highlights of the ETS follow.

HIGHLIGHTS OF THE ETS INTERIM FINAL RULE

Applicability of the ETS. The ETS applies, with some exceptions, to settings where any employee provides health care services or health care support services. The ETS is aimed at protecting workers facing the highest COVID-19 hazards — those working in health care settings where suspected or confirmed COVID-19 patients are treated. This includes employees in hospitals, nursing homes and assisted living facilities; emergency responders; home health care workers; and employees in ambulatory care facilities where suspected or confirmed COVID-19 patients are treated.

It does not apply to:

- Well-defined hospital ambulatory care settings where all employees are fully vaccinated, all non-employees are screened prior to entry, and people with suspected or confirmed COVID-19 are not permitted to enter those settings;
- Non-hospital ambulatory care settings where all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;
- Home health care settings where all employees are fully vaccinated, all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present;

- Health care support services not performed in a health care setting (e.g., off-site laundry, off-site medical billing);
- Telehealth services performed outside of a setting where patients are physically present;
- First aid performed by an employee who is not a licensed health care provider; or
- Dispensing of prescriptions by pharmacists in retail settings.

Further, the ETS exempts fully vaccinated workers from masking, distancing, and barrier requirements when in well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present, e.g. an employee break room.

Key Requirements of the ETS.

COVID-19 Plan. Conduct a hazard assessment and develop and implement a COVID-19 plan for each workplace. Engage employees in the development of the plan.

Patient screening and management. Limit and monitor points of entry to settings where direct patient care is provided. Screen and triage patients, clients, residents, delivery people and other visitors and nonemployees entering the setting for symptoms of COVID-19. Implement patient management strategies.

Standard and Transmission-Based Precautions. Develop and implement policies and procedures to adhere to Standard and Transmission-Based Precautions in accordance with [CDC guidelines](#).

Personal protective equipment (PPE).

- Provide and ensure employees wear facemasks when indoors and when occupying a vehicle with another person for work purposes. Ensure facemasks are worn over the nose and mouth.
- Provide and ensure employees wear respirators and other PPE for exposure to people with suspected or confirmed COVID-19 and for aerosol-generating procedures on a person with suspected or confirmed COVID-19.
- Provide respirators and other PPE in accordance with CDC's Standard and Transmission Based Precautions.
- Allow voluntary use of respirators instead of facemasks. See description of the mini respiratory protection program below.

Aerosol-generating procedures on persons with suspected or confirmed COVID-19.

Consistent with CDC guidelines, for aerosol-generating procedures on persons with suspected or confirmed COVID-19, limit employees present to only those who are essential, perform procedures in an airborne infection isolation room (AIIR), if available, and clean and disinfect surfaces and equipment.

Physical distancing. Keep employees at least 6 feet apart from all other people when indoors except when impossible, such as when delivering medical care.

Physical barriers. At each fixed work location outside of direct patient care areas (e.g., entryway/lobby, check-in desks, triage, hospital pharmacy windows, bill payment) where each employee is not separated from all other people by at least 6 feet of distance, the employer must install cleanable or disposable solid barriers, except where the employer can demonstrate it is not feasible.

Cleaning and disinfection. Follow standard practices for cleaning and disinfection of surfaces and equipment in accordance with CDC guidelines in patient care areas, resident rooms, and for medical devices and equipment. In all other areas, clean high-touch surfaces and equipment at least once a day. Provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible handwashing facilities.

Ventilation. Employers who own or control buildings or structures with existing heating, ventilation, and air conditioning (HVAC) systems must ensure that:

- The HVAC systems are used in accordance with the HVAC manufacturer's instructions and the design specifications of the HVAC systems;
- The amount of outside air circulated through its HVAC systems and the number of air changes per hour are maximized to the extent appropriate;
- All air filters are rated Minimum Efficiency Reporting Value (MERV) 13 or higher, if compatible with the HVAC systems. If MERV-13 or higher filters are not compatible with the HVAC systems, employers must use filters with the highest compatible filtering efficiency for the HVAC systems;
- All air filters are maintained and replaced as necessary to ensure the proper function and performance of the HVAC systems; and
- All intake ports that provide outside air to the HVAC systems are cleaned, maintained, and cleared of any debris that may affect the function and performance of the HVAC system.

Where the employer has an existing airborne infection isolation room (AIIR), the employer must maintain and operate it in accordance with its design and construction criteria. OSHA clarifies that this section does not require installation of new HVAC systems or AIIRs to replace or augment functioning systems.

Health screening and medical management. Employers are required to:

- Screen employees before each work day and shift, such as by asking them to self-monitor;
- Provide testing, when employer-required, at no cost to the employee;
- Require each employee to promptly notify the employer when the employee is COVID-19 positive, suspected of having COVID-19, or experiencing certain symptoms;
- Notify, within 24 hours, certain employees if a person who has been in the workplace is COVID-19 positive;

- Follow requirements to remove employees who have suspected or confirmed COVID-19, certain COVID-19 symptoms, or have had close contact to a person who is COVID-19 positive in the workplace. This includes making decisions on returning employees to work in accordance with guidance from a licensed health care provider or specified CDC guidance;
- Continue to pay employees removed from the workplace in most circumstances.

Vaccination. Provide reasonable time and paid leave for vaccinations and vaccine side effects.

Training. Ensure each employee receives training in a language and at a literacy level the employee understands so that that the employee comprehends disease transmission, tasks and situations in the workplace that could result in COVID-19 infection, and relevant policies and procedures. Ensure each employee receives additional training when changes occur that affect the employee's risk of infection, if policies or procedures are changed, or when there is an indication that an employee has not retained necessary understanding or skill.

Anti-Retaliation. Inform employees of their rights to the protections required by the ETS and do not discharge or in any manner discriminate against employees for exercising these rights or for engaging in actions required by the standard.

Recordkeeping. For employers with more than 10 employees, establish a COVID-19 log of all employee cases of COVID-19 without regard to occupational exposure and follow requirements to make records available to employees.

Reporting of COVID-19 fatalities and hospitalizations. Report to OSHA each work-related COVID-19 fatality within eight hours of learning of the fatality and each work-related COVID-19 in-patient hospitalizations within 24 hours.

Mini Respiratory Protection Program. The ETS includes a “mini respiratory protection program,” which applies only to circumstances specified in the rule, generally when workers are not exposed to suspected or confirmed sources of COVID-19 or other hazards that may require the use of a respirator, but where respirator use could offer enhanced worker protection. If the employer provides respirators to its employees under these circumstances, the mini respiratory program requires that the employer provides specific training, ensures that user seal checks are conducted for tight-fitting respirators, ensures that if respirators are reused, they are reused properly, and ensures the discontinuation of respirator use under certain conditions. However, other key program elements required by OSHA's normal Respiratory Protection standard are not required, including medical evaluation, fit testing and a written program. If workers provide their own respirators, the employer must provide workers with a specific notice intended to inform workers to take certain precautions to be sure that the respirator itself does not present a hazard.

Effective Date and Enforcement. The ETS is effective immediately upon publication in the Federal Register. Employers must comply with most provisions within 14 days of publication, and with the remaining provisions, including physical barriers, ventilation and training requirements, within 30 days. OSHA will use its enforcement discretion to avoid citing employers who are making a good faith effort to comply with the ETS.

OSHA will continue to monitor trends in COVID-19 infections and deaths as more of the workforce and the general population become vaccinated and the pandemic continues to evolve. Where OSHA finds a grave danger from the virus no longer exists for the covered workforce (or some portion of it), or new information indicates a change in measures necessary to address the grave danger, OSHA will update the ETS, as appropriate.

Impact of the ETS on State OSHA Plans. When federal OSHA issues an ETS, states and U.S. territories with their own OSHA-approved occupational safety and health plans (state plans) must either amend their standards to be identical or at least as effective as the new standard, or show that their standard is at least as effective as the new federal standard. Adoption of the ETS by state plans must be completed within 30 days of the promulgation date of the federal final rule.

OSHA says that state or local government mandates or guidance (e.g., legislative action, executive order, health department order) that go beyond and are not inconsistent with the ETS are not intended to be limited by this ETS. For example, OSHA does not intend to preempt state or local COVID-19 testing requirements or state or local requirements for visitors to wear face coverings whenever they enter a hospital or other health care facility.

NEXT STEPS

OSHA will accept written comments on any aspect of this ETS and whether this ETS should become a final rule by 30 days after it is published in the Federal Register.

If you have further questions, contact Roslyne Schulman, AHA director of policy, at rschulman@aha.org.