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# **Fed OSHA's COVID-19 ETS and Updated Workplace Guidance**

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# Agenda

**Background on Fed OSHA's COVID-19 Emergency Rulemaking**

**Application of COVID-19 Healthcare ETS to Your Facilities**

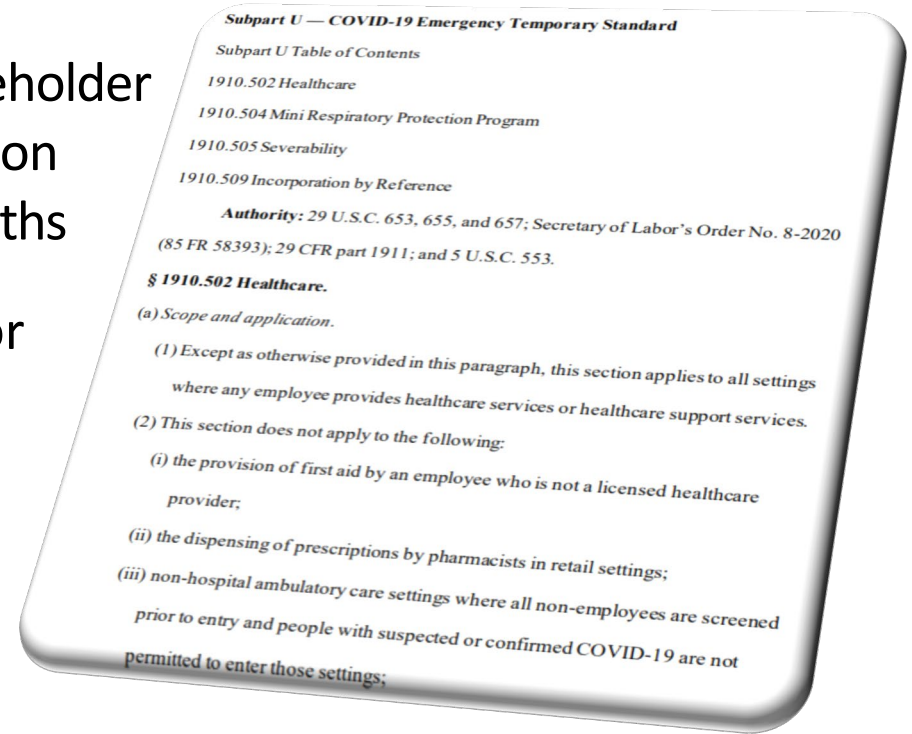
**Requirements of the ETS**

**OSHA's June (Updated) COVID-19 Workplace Guidance**

**Cal/OSHA's Revised COVID-19 ETS Requirements**

# How did we get here?

- Pres. Biden issued a Day 1 E.O. calling for a COVID-19 ETS by 3/15/21
- 4/27/21- OSHA delivered to OMB a proposed final ETS (broadly applicable to all industries)
- Over 6 weeks, OMB hosted 51 stakeholder meetings, while the nat'l vaccination program drove down cases and deaths
- 5/13/21- CDC relaxed protocols for vaccinated individuals
- 6/10/21 – 16 mos. into pandemic, OSHA issues a COVID-19 ETS for healthcare
- ETS published in the Federal Register on July 21





# Scope and Application of the ETS

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# Does the ETS Apply to You?

- ETS applies to all settings where any employee provides **healthcare services** or **healthcare support services**, unless an exception applies

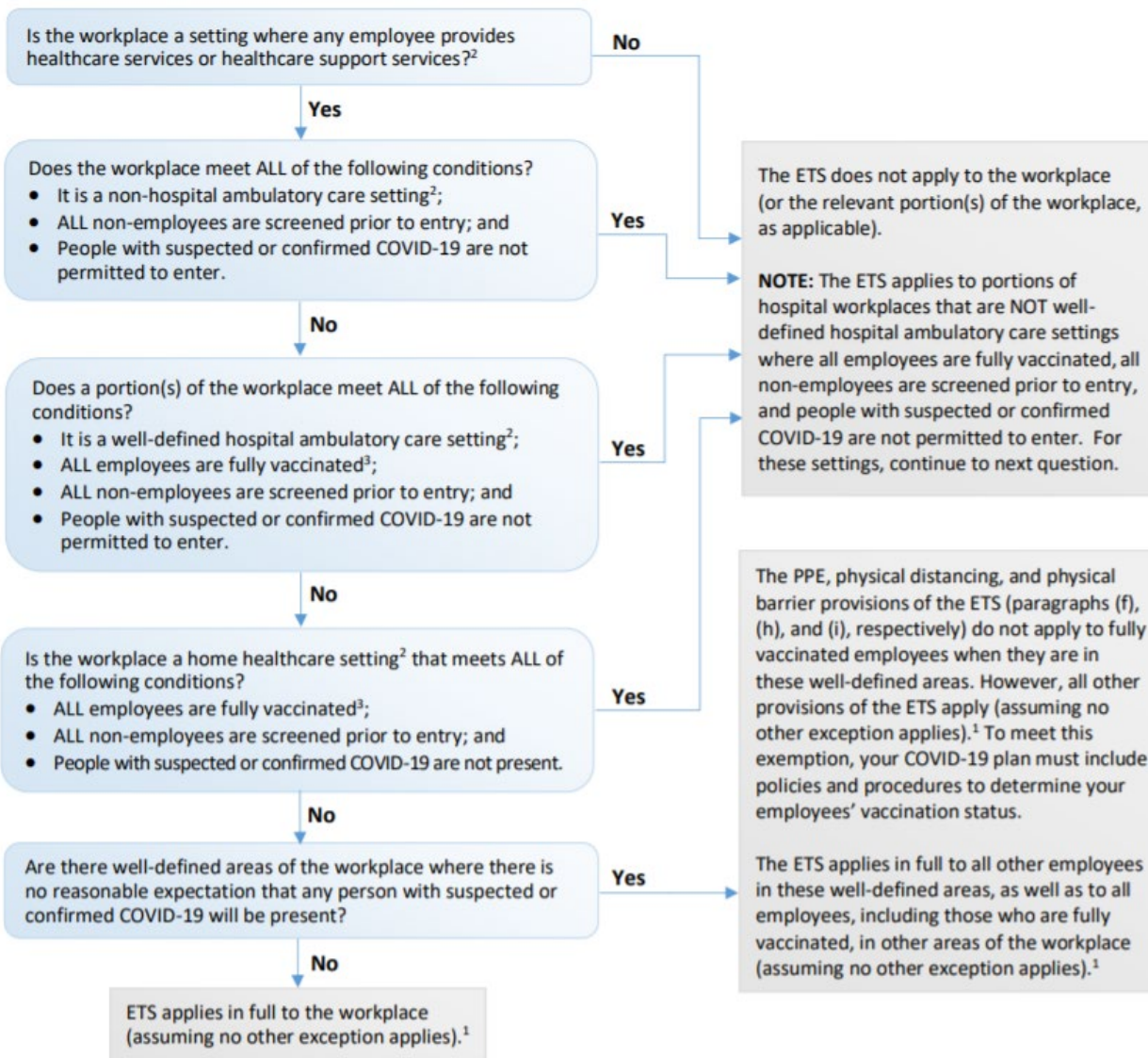
- **Healthcare services** = services to individuals by professional healthcare practitioners to promote, maintain, monitor, or restore health
- **Healthcare support services** = services that facilitate the provision of healthcare services (e.g., on-site laundry, maintenance, etc.)

## Potentially Affected Workplace Settings:

- Hospitals and Specialty Hospitals
- Nursing Homes and Long Term Care
- Other Patient Care (e.g., Chiropractors, Dentists, Optometrists, Family Planning Centers)
- Home Health Providers
- Temp Labor (e.g., Staffing for healthcare pros)
- Health Clinic in Manufacturing Workplace
- 1<sup>st</sup> Aid / Emergency Care by healthcare pros
- Sports Medicine or Sports Club Clinics
- Correctional Facility Medical Clinics



# OSHA Flowchart re ETS Coverage



# Applicable Exceptions

- **1910.502(a)(2)(iii)** - Non-hospital outpatient settings where non-employees are screened for COVID-19 symptoms, and suspected or confirmed COVID-19 cases are not permitted to enter
  - e.g., On-site medical clinic at a manufacturing site where patients are asked about symptoms, and suspected COVID cases may not enter
  - ***Consequence: Prohibition of use of medical clinic to anyone with COVID-19 symptoms (cough, headache, fatigue, etc.)??***
- **1910.502(a)(2)(i)** - 1<sup>st</sup> aid administered by an employee who is not a licensed healthcare provider
  - e.g., 1<sup>st</sup> aid team member at an industrial site, who is not an RN or doctor, but who provides immediate medical attention after an injury occurred

# Application to Poultry/Feed Industries

- ETS applies to the “embedded healthcare setting” within industry facilities
- Applies to the “embedded healthcare setting” but **not** to the remainder of the physical location
- BUT – these locations may be excluded based on one or more of the enumerated exemptions covered in the following slides



# ETS Effective Dates

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# Effective Dates

- All provisions of the ETS *except* for those re: physical barriers, ventilation, and training effective July 6, 2021
- Requirements re: physical barriers, ventilation, and training effective July 21, 2021
- OSHA may exercise enforcement discretion where employers show good faith efforts to comply by effective dates but are unable to meet the deadlines



# **General Industry Updated COVID-19 Guidance**

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# Updated COVID-19 “Guidance”

- Same day it publicized its Healthcare ETS, OSHA also released updated COVID-19 Guidance for all employers **not** covered by the ETS (i.e., non-healthcare settings)
- Guidance ≠ a mandatory standard (i.e., *technically* it does not create new enforceable duties)
- However, OSHA has an active COVID-19 NEP and enforcement authority under the GDC
- Tantamount to a backdoor rule??



# ETS Requirements

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**-- Medical Clinics --**



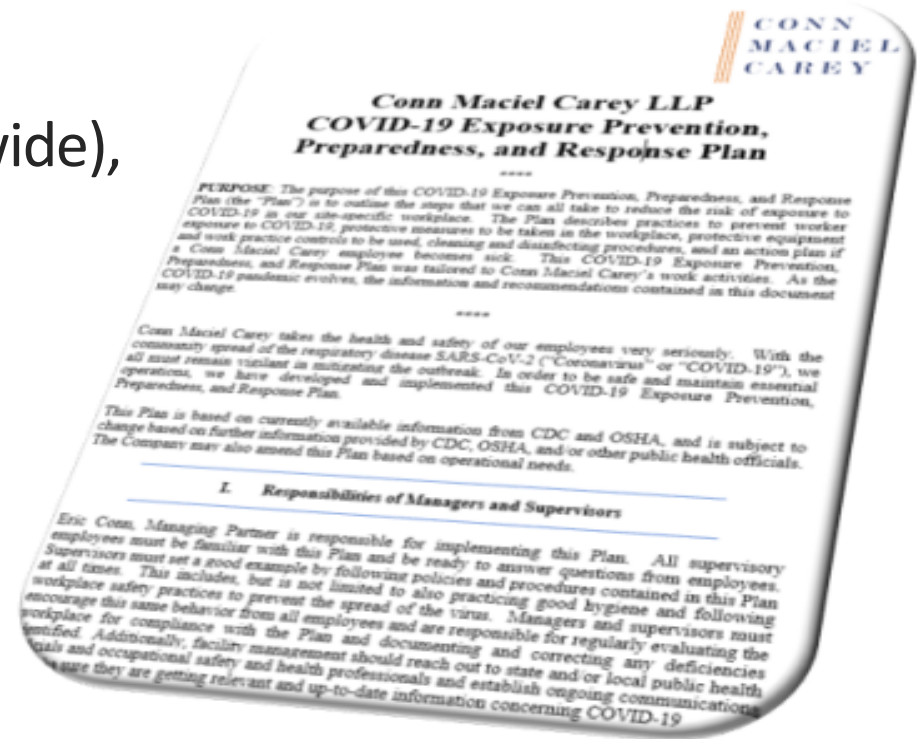


# COVID-19 Plan

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# COVID-19 Prevention Plan

- Conduct a workplace-specific hazard assessment
- Implement a COVID-19 Prevention and Response Plan for each covered workplace
- If 10+ employees (company-wide), the Plan must be in writing
- Consult non-managers
- ID COVID-19 Coordinators
- Outline policy for verifying employee vaccination status
- Address hazards identified in the hazard assessment



# Hazard Assessment

## Purpose:

- Evaluate employees' potential workplace exposures to COVID
- ID and address places and times where people may congregate
- Consider how people enter, travel through, and leave the workplace
- Consider hazards employees are exposed to at fixed locations

## Document Should:

- Date the assessment was performed
- Names and titles of the individuals who participated
- High risk area(s), tasks, and occupations
- A plan to mitigate hazards or risk factors identified
- Employee communication re: status of actions



# Personal Protective Equipment

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# Facemasks

- Ensure employees use facemasks indoors or in vehicles w/ others for work
- Provide enough facemasks to each employee and ensure they change it at least 1x per day, and when they're soiled/damaged or as needed (e.g., for patient care reasons)
- Exceptions:
  - Alone in a room
  - Eating/drinking (at least 6' from others or separated by a barrier)
  - Wearing other respiratory PPE
  - Important to see someone's mouth (e.g., communicating w/ the deaf)
  - Cannot wear facemasks for medical/disability or religious reasons
  - Facemask presents a serious hazard (e.g., arc flash, heat stress, etc.)
  - Any portion of a medical clinic which is well-defined (separated) and there is no reasonable expectation of a suspected or confirmed COVID-19 case

# Respirators and Other PPE

- Respirator and other PPE (i.e., gloves, isolation gown or protective clothing, and eye protection) is required when employee has exposure to suspected or confirmed COVID-19 case, including for aerosol generating procedures on such patients
- Requires compliance w/ 1910.134 requirements (i.e., written respiratory protection program, medical evaluations, fit testing, maintenance and care, training, etc.) and 1910.132 for other PPE
- If supply of N95s is limited, employers may follow *CDC Strategies to Optimize the Supply of N95 Respirators*
- Encourage elastomeric respirators or PAPRs to prevent strain on N95 supply



# Mini-Respiratory Protection Program

- Requirement for “mini respiratory protection program” triggered when:
  - 1) Employer provides N95 for voluntary-use (i.e., when not required by ETS)
  - 2) Employee brings her own respirator (ETS requires employers to allow it)
- **For voluntary-use** respirators, employer must:
  - 1) **Provide Training** in language/literacy level employee understands, prior to 1<sup>st</sup> use and if the type of respirator changes, on:
    - How to inspect, don/doff, use and perform a user seal check on the respirator
    - Limitations and capabilities of respirator
    - Procedures and schedules for storing, maintaining, and inspecting respirator
    - How to recognize adverse medical signs and symptoms from respirator use
  - 2) **Ensure employee performs User Seal Check** each time respirator is used
- **For employee’s own respirator**, employer must provide a specific notice laid out in the ETS (a revised version of Appendix D)

# Mini-Respiratory Protection Program

- **Reuse of respirator** - Ensure N95 used by an employee is reused only by that same employee, and only when:
  - a. Respirator is not visibly soiled or damaged
  - b. Respirator has been stored in a dry, breathable container (e.g., paper bag) for at least 5 calendar days b/n usage
  - c. Employee checks in adequate lighting for damage to fabric or seal
  - d. Employee successfully completes a user seal check
  - e. Employee uses proper hand hygiene before donning the respirator and conducting the user seal check
  - f. Respirator has not been worn more than 5 days total
- **Discontinue use of respirator** - Discontinue employee's use of a respirator if employee or supervisor reports adverse lung or cardiovascular symptoms





# Physical Distancing

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# Physical Distancing

- Ensure employees are separated from all others by at least 6' when indoors, unless it is infeasible (e.g., hands-on medical care), in which case, ensure employees are as far apart as feasible
- Physical distancing can include methods such as:
  - Telehealth
  - Telework or other remote work arrangements
  - Reducing # of people, including non-employees, in an area
  - Visual cues (e.g., signs and floor markings)
  - Staggered arrival, departure, and break times
  - Adjusted work processes, procedures, and stations
- Exceptions to distancing requirements:
  - Fully vaccinated employee in well-defined area where there is no reasonable expectation a suspected or confirmed COVID case will be
  - Momentary, infrequent exposure while people are in movement



# Physical Barriers

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# Physical Barriers

- Install *cleanable or disposable barriers* at each *fixed work location outside of direct care areas* where employees are not separated from all others by at least 6'
- Exceptions:
  - *Employer can demonstrate it is infeasible*
  - *In well-defined areas where all employees are fully vaccinated and there is no reasonable expectation that a suspected or confirmed COVID-19 case will be present*
  - *In direct patient care areas (i.e., locations where “hands-on, face-to-face contact with patients for the purpose of diagnosis, treatment, and monitoring” occurs)*

# Physical Barriers

## Size

- Must be sized and located to block face-to-face pathways b/n individuals *based on where each person would normally stand or sit*

## Material

- Must be impermeable to droplets transmitted when infected individuals sneeze, cough, breath, talk, or yell (i.e., a plastic or acrylic partition)
- Capable of being cleaned and disinfected or disposed

## Feasible examples

- Reception desk, triage station, etc.

## Infeasible examples

- Direct patient care area, EMS service on a patient, and locations where barrier would obstruct egress or interfere w/ fire safety system



# Ventilation

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# Ventilation

- Increase indoor ventilation to *max extent possible w/ existing HVAC systems*; i.e., **DOES NOT** require an upgrade of current systems or a reconfiguration of existing duct work
- 5 key ventilation requirements:
  1. Verify HVAC systems are used in accordance w/ manufacturers' instructions and design specifications, and are functioning as designed
  2. Maximize the amount of outside air circulated through the HVAC system and the # of air changes per hour to the extent appropriate
  3. Install MERV-13 or higher air filters if compatible w/ existing HVAC system (\*if the HVAC system is not compatible w/ such filters, use filters w/ the highest compatible filtering efficiency for the existing system)
  4. Air filters must be maintained and replaced as necessary to ensure proper function and performance of the HVAC systems
  5. Intake ports that provide outside air to HVAC systems must be cleaned, maintained, and cleared of debris that may affect system performance



# Cleaning and Disinfection

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# Cleaning/Disinfection

- Provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible hand washing facilities
- In patient care areas and for medical devices and equipment, covered employers must follow standard practices for cleaning and disinfection of surfaces and equipment in accordance with specified CDC guidance
  - Dedicated medical equipment should be used when caring for patients with suspected or confirmed SARS-CoV-2 infection
  - Ensure that environmental cleaning and disinfection procedures are followed consistently and correctly
  - Management of laundry, food service utensils, and medical waste should also be performed in accordance with routine procedures

# Cleaning/Disinfection

- In all other areas, covered employers must:
  - Clean high-touch surfaces/equipment at least once a day, following manufacturers' instructions for application of cleaners; and
    - As part of hazard assessment, employers should identify high-touch surfaces/equipment and implement policies and procedures to ensure these are cleaned at least once a day.
  - When the employer is aware that a person who is COVID-19 positive has been in the workplace within the last 24 hours, clean and disinfect, in accordance with specified CDC guidance any areas, materials, and equipment under the employer's control that have likely been contaminated by the person who is COVID-19 positive (e.g., rooms they occupied, items they touched).



# Health Screening & Medical Management

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# Health Screening and Medical Management

1. Employee screening before each workday and shift
2. W/in 24 hours of a close contact, Employers must notify employees, vendors, contractors, delivery people, visitors, non-employees where and when the exposure occurred
  - Not applicable to employees who wore respirators at time of exposure or to urgent care in an ER, COVID testing sites, COVID wards
4. Medical Removal
5. Medical Removal Protection (MRP) Benefits
  - Different requirements based on size of workforce
  - No termination or adverse employment action by employer
  - No MRP to employee who refuses to be tested for COVID-19
6. Return to Work after Medical Removal



# Vaccination

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# Vaccination

- Provide to employees:
  - Reasonable time during work hours to get vaccinated
  - Paid leave (w/ a “reasonable cap”) for employees to get vaccinated and recover from adverse reactions (NOTE: “paid leave” may include sick leave already accrued by employee, any additional paid leave provided for this purpose, and/or administrative leave)
  - Check state/local requirements
- Employees may use “reasonable time” during work hours to:
  - registering for vaccination appointment
  - completing pre-vaccination paperwork
  - travel to/from vaccination site
  - receiving the shot
  - post-vaccination monitoring period





# Training

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# Training

- Interactive training by a person knowledgeable of the topics
- Covering the following topics:
  - What COVID-19 is and how it is transmitted
  - Policies and procedures to prevent the spread of COVID-19
  - Patient screening and management policies
  - Tasks in the workplace that could result in COVID-19 infection
  - Multi-employer workplace agreements
  - Policies for PPE worn to comply w/ the ETS
  - Cleaning and disinfecting policies
  - Health screening and medical management policies
  - Sick leave policies
  - Identity of the safety coordinator





# Recordkeeping and Reporting

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# Record Making / Recordkeeping

- Covered employers w/ 10+ employees across the entire company have 2 new record making / recordkeeping requirements:
  1. Maintain *all* versions of written COVID-19 Prevention Plan implemented to comply with Sec. (c)(6) of the ETS
  2. Create and maintain a COVID-19 log on which every instance of a COVID-19 positive employee must be recorded *whether or not the illness is work-related*
- This is in addition to normal injury/illness recordkeeping – work-related COVID-19 cases must be recorded on both the 300 Log and the new COVID-19 Log

# COVID-19 Log

- Must include case on log within 24 hours of learning of positive case
- Include if confirmed by test or diagnosed by healthcare provider
- Should NOT include individuals on the log who exclusively telework
- Must be retained as though its a confidential medical record
- Must maintain and preserve COVID-19 log for period ETS in effect
- Make available to OSHA, and to employees (in a very limited manner) upon request by next business day

# Reporting COVID-19 Cases

- Must report *all* work-related COVID-19 fatalities w/in 8 hours of learning of reportable case
  - *Not* limited to deaths that occur w/in 30 days of exposure
- Must report *all* work-related COVID-19 in-patient hospitalizations w/in 24 hrs of learning of hospitalization
  - *Not* limited to hospital admissions that occur w/in 24 hrs of exposure
- If employer reports a COVID-19 hospitalization to OSHA, and that employee later dies, there is no need to make a second report of the more serious outcome



# Patient Screening and Management

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# Patient Screening / Management

1. Limit and monitor points of entry to direct patient care areas
  - Does not apply to emergency responders or other licensed healthcare providers entering non-healthcare settings for emergency care
2. Screen and triage everyone who enters (patients, clients, residents, delivery people, visitors and non-employees)
  - Assign employee to each entrance to perform health screening for all who enter OR screen everyone by phone or video prior to arrival
  - Min. screening requirement: ask each person re: COVID symptoms
  - Confirm face coverings are worn
3. Implement patient management strategies
  - CDC's 2/23/21 *Infection Prevention & Control* and 4/27/21 *Infection Control After Vaccination* Guidance incorporated in the ETS

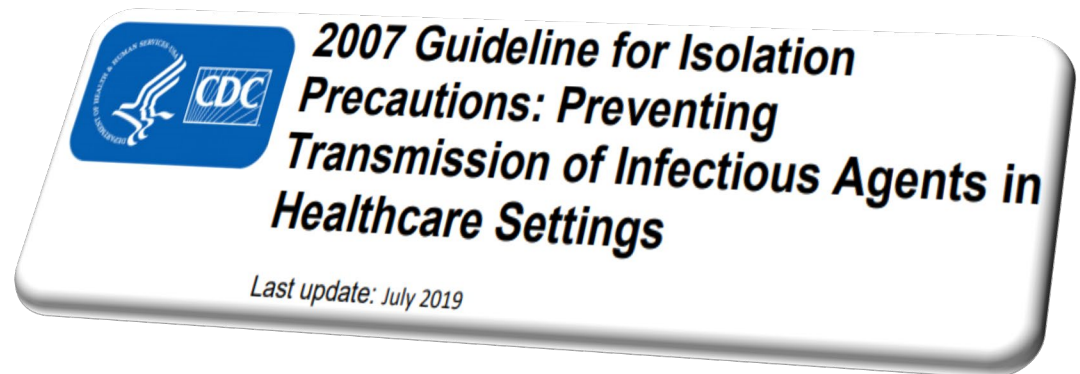


# Standard & Transmission-Based Precautions

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# Standard and Transmission-Based Precautions

- Implement policies to adhere to Standard and Transmission-Based Precautions per CDC's *Guidelines for Isolation Precautions*
- Standard precautions include:
  - Respiratory etiquette (e.g., cough/sneeze into tissue or your elbow)
  - Hand hygiene
  - Use of certain types of PPE based on anticipated exposure
  - Safe management of contaminated equipment and other items
  - Safe injection practices
- Transmission-based precautions are used w/ Standard precautions when the presence of an infectious agent (e.g., COVID) is suspected or confirmed







# Anti-Retaliation & No Cost Provisions

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# Anti-Retaliation and No-Cost Provisions

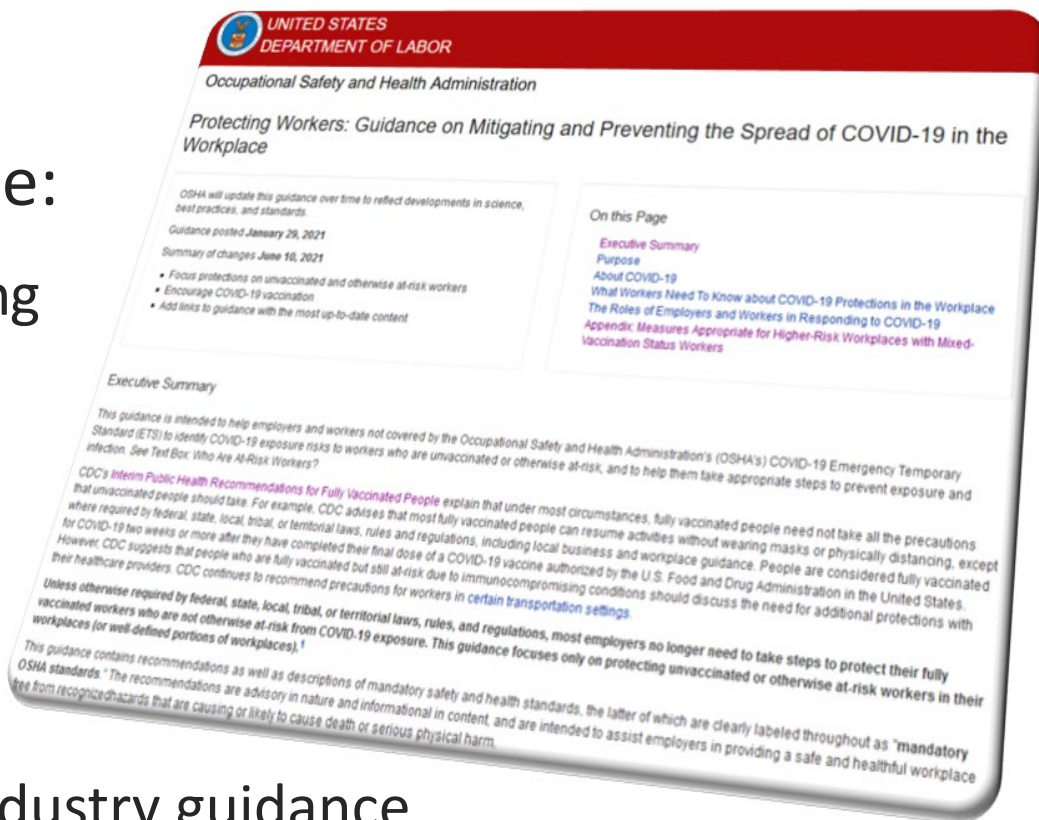
- 1910.502(o) incorporates anti-retaliation provisions prohibiting employers from retaliating or discriminating against any employee for exercising their right to the protections required under the ETS or engaging in actions required by it
- 1910.502(p) affirmatively places financial onus on employers to ensure all appropriate steps are taken to comply w/ the ETS; i.e., covered employers must implement all ETS requirements at no cost to employees



# **OSHA's Updated COVID-19 Workplace Guidance for Non-Healthcare Settings**

# Updated COVID-19 Guidance

- Purpose of new guidance is to help ensure employers continue to protect non-vaccinated workers in non-healthcare settings
- The updated Guidance:
  - Shifts focus to protecting non-vaccinated and other at-risk workers
  - Creates incentives to encourage vaccination
  - Shares links to up-to-date CDC and other industry guidance



# Suggested Actions

- Provide paid time off for employees to get vaccinated
- Quarantine unvaccinated workers who experience close contact and all workers who experience COVID symptoms or test positive
- Implement physical distancing for unvaccinated workers
- Provide unvaccinated and other at-risk workers w/ face coverings
- ***Implicit recommendation to verify vaccination status (see ETS for how)***
- Train workers on COVID-19 policies and procedures
- “Suggest” that unvaccinated customers/guests wear face covering
- Maintain existing ventilation systems
- Perform routine cleaning and disinfection
- Record and report COVID-19 cases as applicable
- Retaliation protections (e.g., set up an anonymous complaint line)
- Follow other applicable mandatory OSHA standards

# Physical Distancing

- Implement physical distancing for unvaccinated and otherwise at-risk workers in all communal work areas
- Employers could also limit the number of unvaccinated or otherwise at-risk workers in one place at any given time, for example by implementing flexible worksites (e.g., telework); implementing flexible work hours (e.g., rotate or stagger shifts to limit the number of such workers in the workplace at the same time);
- At fixed workstations where unvaccinated or otherwise at-risk workers are not able to remain at least 6 feet away from other people, transparent shields or other solid barriers (e.g., fire resistant plastic sheeting or flexible strip curtains) can separate these workers from other people

# Employee Face Coverings

- Provide unvaccinated and otherwise at-risk workers with face coverings or surgical masks at no cost, unless work task requires a respirator or other PPE
- Face coverings should be made of at least 2 layers of tightly woven breathable fabric, such as cotton, and should not have exhalation valves/vents
- Unless otherwise provided by federal, state, or local requirements, unvaccinated workers who are outdoors may opt not to wear face coverings unless they are at-risk, for example, if they are immunocompromised
- All workers should be supported in continuing face covering use
- For operations where the face covering can become wet and soiled, provide replacements daily or more frequently, as needed
- Employers with workers in a setting where face coverings may increase the risk of heat-related illness indoors or outdoors or cause safety concerns due to introduction of a hazard (for instance, straps getting caught in machinery) may wish to consult with an occupational safety and health professional

# Ventilation

- Maintain ventilation systems (*see* CDC's Ventilation in Buildings and OSHA Alert: COVID-19 Guidance on Ventilation in the Workplace, based on ASHRAE Guidance for Building Operations During the COVID-19 Pandemic)
- Key measures include:
  - Ensuring the HVAC system(s) is operating in accordance with the manufacturer's instructions and design specifications
  - Conducting all regularly scheduled inspections and maintenance procedures
  - Maximizing the amount of outside air supplied
  - Installing air filters with a Minimum Efficiency Reporting Value (MERV) 13 or higher where feasible
  - Maximizing natural ventilation in buildings without HVAC systems by opening windows or doors, when conditions allow (if that does not pose a safety risk)
  - Considering the use of portable air cleaners with High Efficiency Particulate Air (HEPA) filters in spaces with high occupancy or limited ventilation



## Emphasis on Meat & Poultry Processing

- **Appendix** provides that employers should take *additional* steps to mitigate the spread of COVID-19 for unvaccinated and otherwise at-risk workers where there is heightened risk due to the following factors:
  - **Close contact** – working close to one another (e.g., on production lines)
  - **Time of contact** – prolonged closeness to coworkers (e.g., 8-12 hrs/shift)
  - **Type of contact** – coughs/sneezes, contaminated surfaces, shared spaces
- In these types of higher-risk workplaces – which include manufacturing, *meat and poultry processing*, high-volume retail and grocery, and seafood processing – the Appendix provides best practices to protect unvaccinated or otherwise at-risk workers

# Appendix

- In **all** higher-risk workplaces where there are unvaccinated or otherwise at-risk workers:
  - Stagger break times, or provide temporary break areas and restrooms; maintain at least 6 feet of distance from others at all times
  - Stagger workers' arrival and departure times
  - Provide visual cues (e.g., floor markings, signs)
  - Implement strategies (tailored to your workplace) to improve ventilation that protects workers as outlined in CDC's Ventilation in Buildings and in the OSHA Alert: COVID-19 Guidance on Ventilation in the Workplace
- In workplaces (or well-defined work areas) with **processing or assembly lines** where there are unvaccinated or otherwise at-risk workers:
  - Proper spacing (or if not possible, appropriate use of barriers) can help reduce the risks for such workers



# **Cal/OSHA's Revised COVID-19 ETS**

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## **Adopted June 17, 2021**

# Physical Distancing Requirements formerly § 3205(c)(6)

- Requirements for physical distancing have been removed
  - May '21 version had retained physical distancing until 7/31/21
  - June version (official version) deletes former Sec. 3205(c)(6)
- Employers must ***consider*** whether it is necessary to implement physical distancing during an outbreak and must ***implement*** physical distancing for employees during a major outbreak

# Face Coverings

## § 3205(c)(6) - formerly (c)(7)

- Under the original (Nov. '20) ETS, employees were required to wear face masks when indoors, or when outdoors and closer than 6', subject to certain exceptions
- ***Under the new revised ETS: fully vaccinated workers are not required to wear face masks***
- Employees who are not fully vaccinated: masks are required indoors or when in vehicles, with limited exceptions
- “Face covering”
  - New definition requires material include “at least 2 layers”
  - May not include scarf, ski mask, balaclava, bandana, turtleneck or collar



# Face Coverings

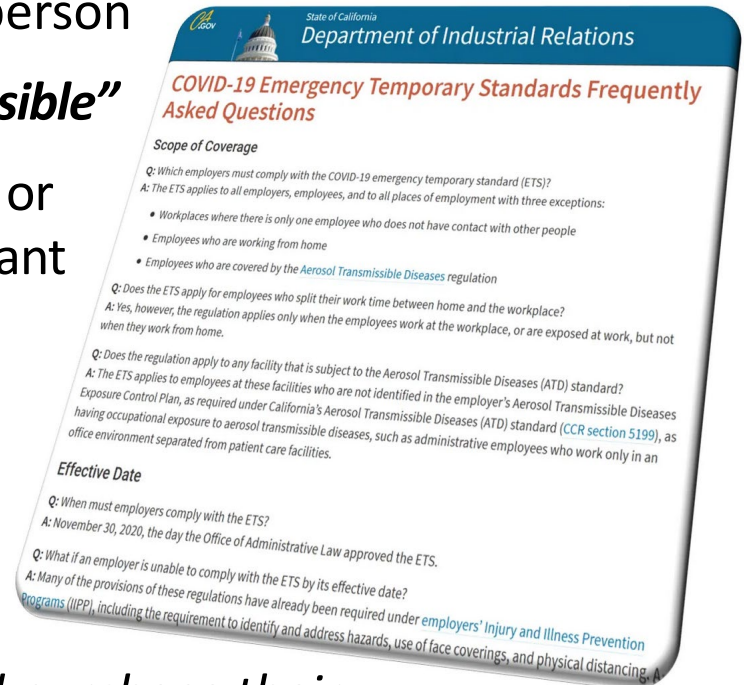
## § 3205(c)(6) - formerly (c)(7)

- “Fully vaccinated” definition
  - “employer has ***documented that the person received***, at least 14 days prior, either the 2<sup>nd</sup> dose in a 2-dose COVID vaccine series or a single-dose COVID vaccine”
  - International vaccines approved by WHO are recognized
- FAQs recognize the following options:
  - Employees provide **proof of vaccination (vaccine card, image of vaccine card or health care document showing vaccination status)** and employer maintains a copy
  - Employees provide proof of vaccination. ***Employer maintains a record of the employees who presented proof***, but not the vaccine record itself
  - ***Employees self-attest to vaccination status*** and employer maintains a record of who self-attests

# Respirators

## § 3205(c)(6)(B) and others

- ***“Upon request,”*** employers must provide for ***voluntary use*** respirators to employees who are not fully vaccinated and who are working indoors or in vehicles w/ more than one person
- FAQ- “upon request” means ***“as soon as possible”***
- FAQ- employer may either stock respirators or poll workers to determine how many will want them before acquiring them
- FAQ- once employer establishes employees wish to wear respirators, it must stock enough of the ***correct size and type*** to fulfill reasonably foreseeable requests on demand
- FAQ- ***“if an employee prefers to select and purchase their own respirator, an employer may permit this alternative, as long as the employer reimburses the employee in timely manner”***



# Respirators

## § 3205(c)(6)(B) and others

- Training must include policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use w/out fear of retaliation and at no cost, and:
  - How to properly wear the respirator
  - How to perform an operator seal check
  - The fact that facial hair interferes w/ the seal
- But see outbreak/major outbreak req'ts
- FAQs - Cal/OSHA will not cite employers who make a “good faith estimate and effort” to provide respirators as soon as possible to employees that request them



# Partitions

## § 3205(7) and others

- Requirement to install “cleanable solid partitions” at fixed work stations where physical distancing not maintained has been **deleted**
- However, if an outbreak occurs, employers must evaluate whether to re-institute physical distancing and, where physical distancing is not feasible, use partitions
- If a major outbreak occurs, employers must install partitions for fixed work stations where physical distancing is not maintained

# Exclusion Pay

## § 3205(c)(9)(C)

- Exclusion pay for COVID-19 cases and employees who had a close contact in the workplace
- Exceptions now available for:
  1. Employees who were fully vaccinated before the close contact and are asymptomatic
  2. COVID cases who return to work under return-to-work criteria and remained asymptomatic for 90 days after initial onset of symptoms;  
**OR** for asymptomatic cases for 90 days after first positive test
- Wages are *“subject to enforcement through procedures available under existing law”* - beware of class action/PAGA litigation
- Revised ETS adopts E.O. shortening close contact exclusion from 14 to 10 days

# Notice of COVID-19 Case

## § 3205(c)(3)(B)(3)

- Removed required notice to close contacts re: potential exposure
- Instead, ETS aligns notice provision with AB 685:
  - Written notice w/n 1 business day
  - To all ***employees (and their union) at the “worksite during the high-risk exposure period”***
  - And to ***“independent contractors and other employers” at worksite*** during high-risk exposure period
- “Worksite” means the bldg, store, facility, agricultural field, or other ***location where a COVID-19 case was present during high-risk exposure period.*** Does not apply to bldgs, floors or other locations that COVID-19 case did not enter

# Outbreaks

- 3+ **employee** COVID-19 cases w/in **exposed group** had **visited** workplace during high-risk exposure period in 14-day period
- Exposed group (replaces “exposed workplace” in outbreak Sec.)
  - “all **employees** at a work location, working, or a common area at work, where an **employee COVID-19 case was present**” during high-risk exposure period
  - Incorporates some FAQs
- Must require face coverings, evaluate physical distancing and barriers, and have MERV 13 or higher efficiency filters where mechanical ventilation

# Outbreaks - Testing

- Employer must ***make COVID-19 testing available*** at no cost
- Exceptions to testing requirement:
  - ***Employees not present*** at the workplace during the relevant 14-day period
  - ***Fully-vaccinated employees*** who do not have COVID symptoms
  - ***Asymptomatic COVID cases*** after returning to work, no testing is required for 90 days after initial onset of symptoms (or never developed symptoms 90 days after the first positive test)



# Major Outbreaks

- 20+ employee COVID cases w/in an ***exposed group*** that ***visited*** workplace during high-risk exposure period in a 30-day period
- Applies until fewer than 3 COVID-19 cases detected in the exposed group for a 14-day period
- Testing shall be made available to all employees in exposed group, regardless of vaccination status
- Employer must ***provide respirators for voluntary use*** to exposed employees
- ***Physical distancing requirements for employees not wearing respirators*** required by employer, with narrow exceptions
- Partitions at work stations where employee in exposed group works for extended period and distancing is not maintained

# QUESTIONS?



# Check out our blogs:

## the **OSHA DEFENSE** report



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## the **CAL/OSHA DEFENSE** report

CAL/OSHA Updates from Conn Maciel Carey's national OSHA Practice Group







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# 2021 OSHA WEBINAR series

What Employers Need to Know About the COVID-19 Vaccine  
Thursday, February 11th

What to Expect from DOL Under a Biden Administration  
Wednesday, June 16th

Special Bonus Webinar: COVID-19 Vaccines at the Workplace  
Thursday, February 18th

Mid-Year Review of OSHA Developments  
Thursday, July 22nd

Update About the Chemical Safety Board  
Tuesday, March 16th

OSHA VPP and other Cooperative Programs  
Tuesday, August 24th

Annual Cal/OSHA Enforcement and Regulatory Update  
Tuesday, March 23rd

Update about OSHA's Electronic Recordkeeping Rule  
Wednesday, September 8th

COVID-19 OSHA Enforcement and Regulatory Update  
Wednesday, April 20<sup>th</sup>

OSHA Issues During Acquisitions and Divestitures  
Thursday, October 7th

Respiratory Protection Rules - Top 5 Risks and Mistakes  
Wednesday, May 12th

Updates about OSHA's PSM Standard and EPA's RMP Rule  
Tuesday, November 16th