



**UPDATE ON OSHA'S
EMERGENCY TEMPORARY STANDARD
FOR HEALTHCARE WORKERS**

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EMERGENCY TEMPORARY STANDARD

On December 27, 2021 OSHA released a statement on the COVID-19 Healthcare ETS (Healthcare ETS).

A summary of the statement is as follows:

1. OSHA has withdrawn non-recordkeeping portions of the Healthcare ETS,
2. The requirement to keep a COVID-19 log remains in effect,
3. The reporting provisions remain in effect. This area of the regulations requires work-related COVID-19 fatalities and hospitalizations be reported regardless of the amount of time between the exposure to COVID-19 in the work environment and the death or in-patient hospitalization. Under the ETS, a COVID-19 fatality must be reported within 8 hours and a hospitalization within 24 hours of learning.

Additionally:

- OSHA advises that it intends to continue to work expeditiously to issue a final standard that will protect healthcare workers from COVID-19 hazards, and will do so as it also considers its broader infectious disease rulemaking.
- OSHA strongly encourages all healthcare employers to continue to implement the ETS's requirements in order to protect employees from a hazard that too often causes death or serious physical harm to employees.
- OSHA will vigorously enforce the general duty clause and its general standards, including the Personal Protective Equipment (PPE) and Respiratory Protection Standards, to help protect healthcare employees from the hazard of COVID-19.

The entire text of the Statement from OSHA is as follows:

Statement on the Status of the
OSHA COVID-19 Healthcare ETS
(December 27, 2021)

On June 21, 2021, OSHA adopted a [Healthcare Emergency Temporary Standard](#) (Healthcare ETS) protecting workers from COVID-19 in settings where they provide healthcare or healthcare support services. 86 FR 32376. Under the OSH Act, an ETS is effective until superseded by a permanent standard – a process contemplated by the OSH Act to occur within 6 months of the ETS's promulgation. 29 U.S.C. 655(c).

OSHA announces today that it intends to continue to work expeditiously to issue a final standard that will protect healthcare workers from COVID-19 hazards, and will do so as it also considers its broader infectious disease rulemaking. However, given that OSHA anticipates a final rule cannot be completed in a timeframe approaching the one contemplated by the OSH Act, OSHA also announces today that it is withdrawing the non-recordkeeping portions of the healthcare ETS. The COVID-19 log and reporting provisions, 29 CFR 1910.502(q)(2)(ii), (q)(3)(ii)-(iv), and (r), remain in effect. These provisions were adopted under a separate provision of the OSH Act, section 8, and OSHA found good cause to forgo notice and comment in light of the grave danger presented by the pandemic. See 86 FR 32559.

With the rise of the Delta variant this fall, and now the spread of the Omicron variant this winter, OSHA believes the danger faced by healthcare workers continues to be of the highest concern and measures to prevent the spread of COVID-19 are still needed to protect them. Given these facts, and given OSHA's anticipated finalization of this rule, OSHA strongly encourages all healthcare employers to continue to implement the ETS's requirements in order to protect employees from a hazard that too often causes death or serious physical harm to employees.

As OSHA works towards a permanent regulatory solution, OSHA will vigorously enforce the general duty clause and its general standards, including the Personal Protective Equipment (PPE) and Respiratory Protection Standards, to help protect healthcare employees from the hazard of COVID-19. The Respiratory Protection Standard applies to personnel providing care to persons who are suspected or confirmed to have COVID-19. OSHA will accept compliance with the terms of the Healthcare ETS as satisfying employers' related obligations under the general duty clause, respiratory protection, and PPE standards. Continued adherence to the terms of the healthcare ETS is the simplest way for employers in healthcare settings to protect their employees' health and ensure compliance with their OSH Act obligations.

OSHA believes the terms of the Healthcare ETS remain relevant in general duty cases in that they show that COVID-19 poses a hazard in the healthcare industry and that there are feasible means of abating the hazard. OSHA plans to publish a notice in the Federal Register to implement this announcement.”

This information is available on the OSHA website here: <https://www.osha.gov/coronavirus/ets>.

If you need additional assistance, please contact your Senior Loss Control Consultant or Carol Fronczek at fronczek@wctrust.com.