Overview of OSHA Emergency Temporary Standard (ETS) for COVID-19

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Learning Objectives

1. Present an overview of the OSHA Emergency Temporary Standard (ETS)

2. Identify which facilities are exempt from the ETS

3. Review OSHA risk assessment criteria

3. List the elements included in the COVID-19 ETS

4. Discuss timeline for implementation and enforcement

5. Q and A

How Did We Get to a COVID-19 ETS?

- Grave Danger: incurable, permanent, or non-fleeting health consequences of exposure to the virus
- General Duty Clause and CDC Guidelines ineffective
- Because workers in healthcare settings where COVID-19 patients are treated continue to have regular exposure to SARS-CoV-2 and any variants that develop, they remain at an elevated risk of contracting COVID-19 regardless of vaccination status.
- Therefore, OSHA has determined that a grave danger to healthcare and healthcare support workers remains, despite the fully-vaccinated status of some workers, and that an ETS is necessary to address this danger.

OSHA Authority to Ensure a Safe Workplace

- The language of section 6(c)(1) is not discretionary: the Secretary "shall" provide for an ETS when OSHA makes the prerequisite findings of grave danger and necessity.
- Where OSHA finds a grave danger from the virus no longer exists for the covered workforce (or some portion thereof), or new information indicates a change in measures necessary to address the grave danger, OSHA will update the ETS, as appropriate.
- The ETS is effective for 6 months following the publication in the Federal Register on June 21, 2021.
- Public comments invited: www.regulations.gov
- Docket No. OSHA 2020-0004

Who is Exempt?

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 (e.g., break room).

Exempt Entities

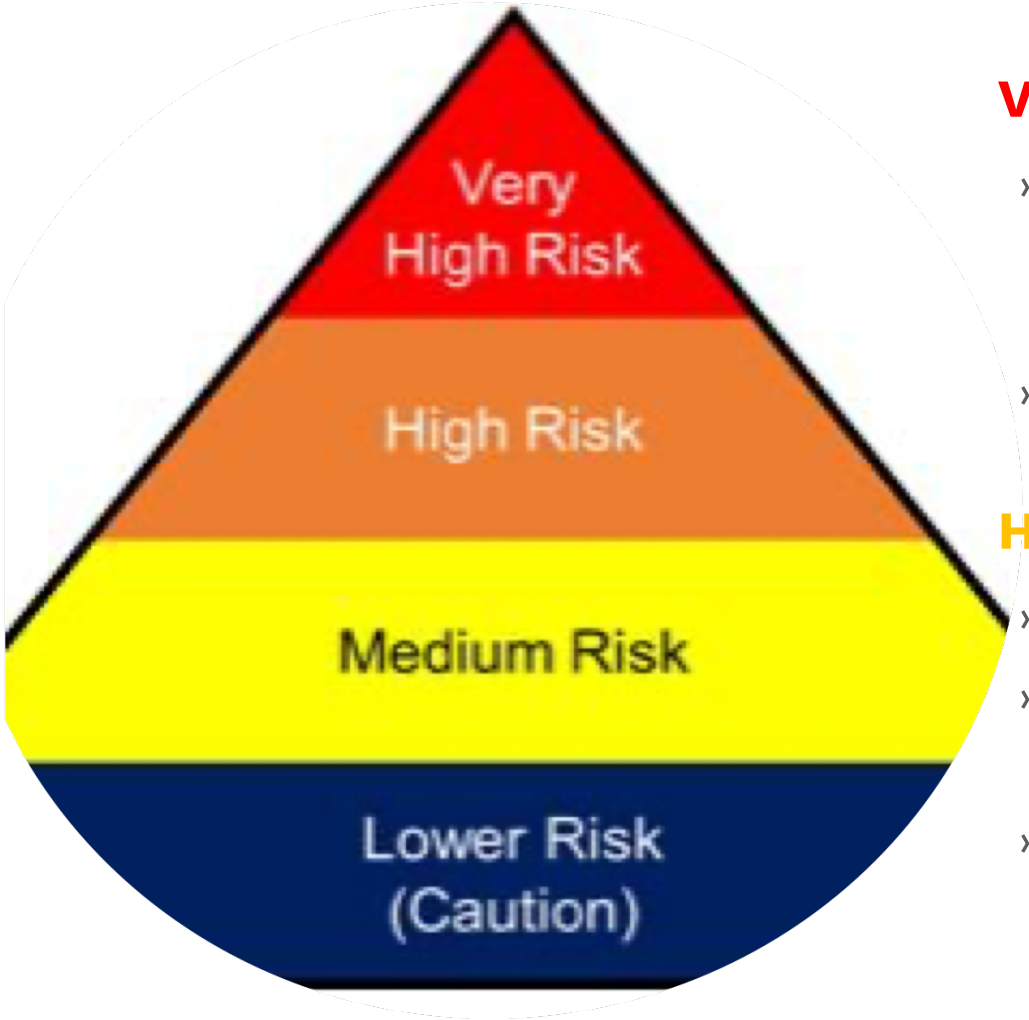
- **Non-hospital ambulatory care settings where all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings**
- **Well-defined hospital ambulatory care settings where all employees are fully vaccinated, and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;**
- Home healthcare settings where all employees are fully vaccinated, and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present;
- Healthcare support services not performed in a healthcare setting (*e.g.*, off-site laundry, off-site medical billing); or
- Telehealth services performed outside of a setting where direct patient care occurs.

CDC Definition of Exposure

- CDC defines exposure through unprotected close contact as being within 6 feet of an infected person(s) for a **cumulative** total of at least 15 minutes over a 24-hour period starting at 2 days before illness onset (or 2 days before samples are collected for testing in asymptomatic patients) and until the infected person meets the criteria for ending isolation.

CDC, March 1, 2021

Assessing the Risk of COVID-19 Exposure



Very High Exposure Risk Potential

- HCP (doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures
- **Healthcare or laboratory personnel collecting or handling COVID-19 specimens**

High Exposure Risk Potential

- HCP/support staff who must enter patients' rooms
- Medical transport workers (EMS) moving patients in enclosed vehicles
- Mortuary workers involved in preparing bodies for burial/cremation

Medium Exposure Risk

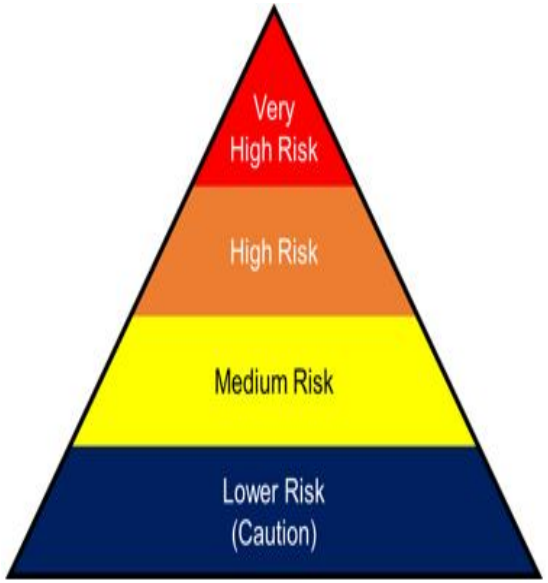
Frequent/close contact (within 6 feet) of people who may be infected, but who are not known to have/suspected of having COVID-19

- Those who may have contact with the general public
- Environmental (janitorial, EVS) services
- Pastoral, social, or public health workers in contact with community members

Lower Exposure Risk (Caution)

Does not require contact with people known or suspected of being, infected with SARS-CoV-2

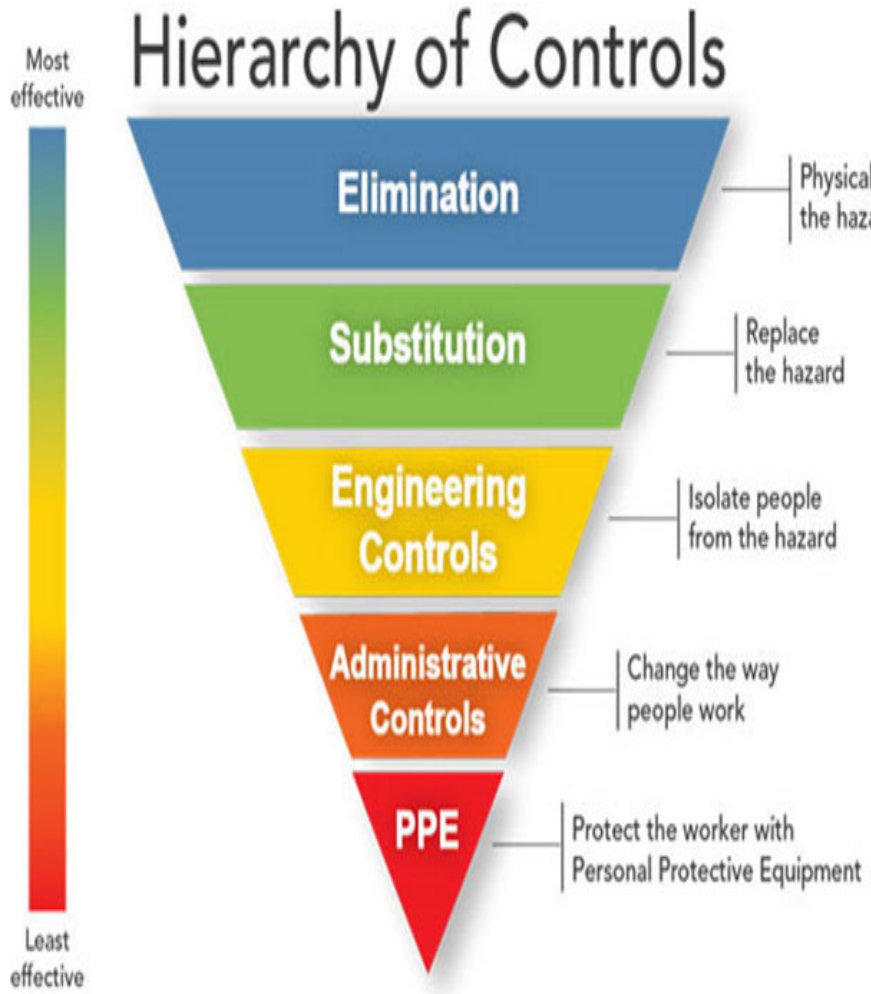
- Minimal occupational contact with the public/other coworkers
- May be impacted by community transmission rates
- **Remote workers, office workers, HCP providing telemedicine services**

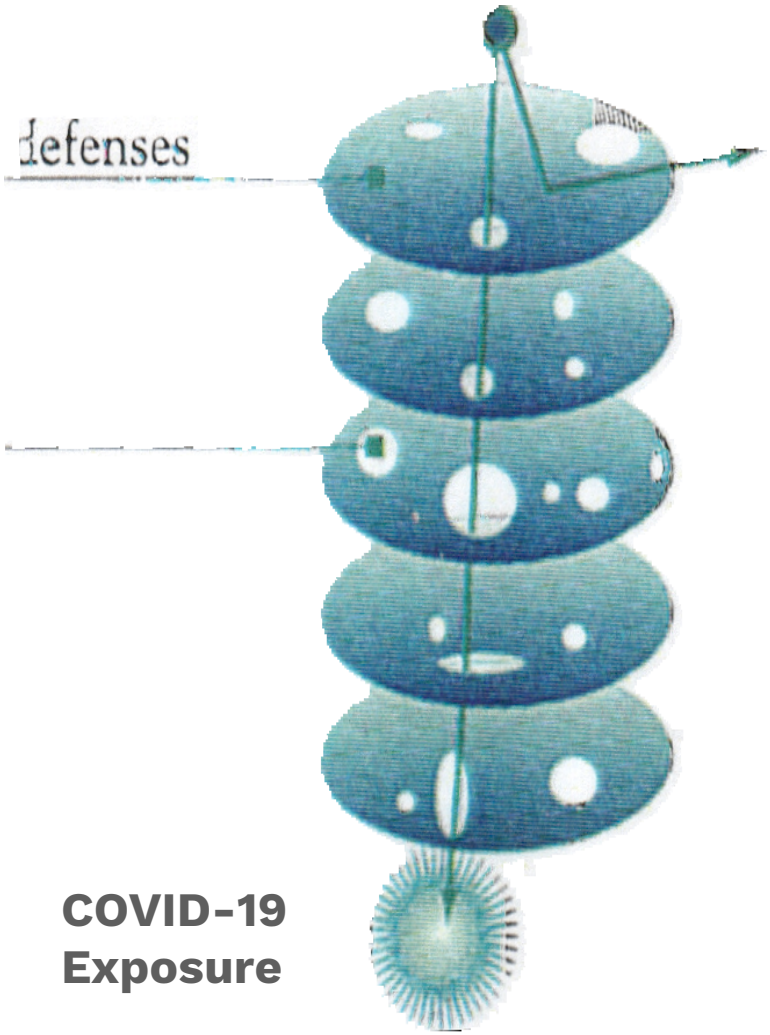


www.OSHA.gov

Hierarchy of Controls = Multi Layered

- Layered approach better ensures that no inherent weakness in any one approach
- James Reason's model of accident causation dynamics, more commonly referred to as the "Swiss Cheese Model of Accident Causation" (Reason, April 12, 1990).





Elements of the ETS Covid-19 Plan

- Patient screening and management
- Standard and transmission precautions; respirators and other PPE
- Limiting exposure to aerosol-generating procedures
- Physical distancing (6 ft), physical barriers, ventilation
- Cleaning and disinfection
- Training
- Employee health screening, medical management,
- Access to vaccination; reasonable time and paid leave
- Anti-retaliation provisions, medical removal protection (MRP)
- Recordkeeping and reporting

Elements of the ETS

- **COVID-19 plan**: Develop and implement a COVID-19 plan (in writing if more than 10 employees) that includes a designated safety coordinator with authority to ensure compliance, a workplace-specific hazard assessment, involvement of non-managerial employees in hazard assessment and plan development/implementation, and policies/procedures to minimize the risk of transmission of COVID-19 to employees.
- **Patient screening and management**: Limit and monitor points of entry to settings where direct patient care is provided; screen and triage patients, clients, and other visitors and non-employees; implement patient management strategies.

Surveillance Symptoms of COVID-19

The Council of State and Territorial Epidemiologists (CSTE 2020) surveillance definition for COVID-19 includes:

(1) **at least two of the following symptoms**: fever (measured or subjective), chills, rigors (i.e., shivering), myalgia (i.e., muscle aches), headache, sore throat, nausea or vomiting, diarrhea, fatigue, congestion or runny nose; **or**

(2) **any one of the following symptoms**: cough, shortness of breath, difficulty breathing, new olfactory (i.e., smell) disorder, new taste disorder; **or**

(3) severe respiratory illness with **at least one** of the following: clinical or radiographic evidence of pneumonia, acute respiratory distress syndrome (ARDS)

Symptoms for Delta Variant: headache, followed by sore throat, runny nose, and then fever.

Elements of the ETS

- **Standard and Transmission-Based Precautions:** Develop and implement policies and procedures to adhere to CDC guidelines.
- **Personal protective equipment (PPE):** Provide & ensure each employee wears a facemask when indoors and when occupying a vehicle with other people for work purposes; provide & ensure employees use respirators and other PPE for exposure to people with suspected/confirmed COVID-19, and for aerosol-generating procedures on a person with suspected/confirmed COVID-19.
- **Aerosol-generating procedures on a person with suspected/confirmed COVID-19:** Limit employees present to only those essential; perform procedures in an airborne infection isolation room, if available; and clean and disinfect surfaces and equipment after the procedure is completed.

Standard and Transmission Precautions

- The CDC recommends that healthcare personnel (including healthcare support services) who enter the room or area of a patient with suspected or confirmed COVID-19:
- Adhere to Standard Precautions plus gown, gloves, and eye protection, **and** also use a NIOSH-approved N95 filtering facepiece or equivalent or higher-level respirator.
- Use of N95 respirator requires fit testing, medical screening and a written respiratory protection program

Voluntary Use of N-95 Respirators

The training requirements for the use of employer-provided respirators require the employee to know:

a) how to inspect, put on and remove, and use a respirator;

b) the limitations and capabilities of the respirator, particularly when the respirator has not been fit tested;

c) procedures and schedules for storing, maintaining, and inspecting respirators;

d) how to perform a user seal check

e) how to recognize medical signs and symptoms that may limit or prevent the effective use of respirators and what to do if the employee experiences signs and symptoms

These training requirements for respirator use are similar to the training requirements mandated under the Respiratory Protection standard for required respirator use. (See 29 CFR 1910.134(k)).

Elements of the ETS

- **Physical distancing**: Keep people at least 6 feet apart when indoors.
- **Physical barriers**: Install cleanable or disposable solid barriers at each fixed work location in non-patient care areas where employees are not separated from other people by at least 6 feet.
- **Ventilation:** Ensure that employer-owned or controlled existing HVAC systems are used in accordance with manufacturer's instructions and design specifications for the systems and that air filters are rated Minimum Efficiency Reporting Value (MERV) 13 or higher if the system allows it.

Elements of the ETS

- **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 and provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible handwashing facilities.
- Use products from the EPA –N list

  https://www.epa.gov/coronavirus/about-list-n-disinfectants-coronavirus-covid-19-0
- **NOTE:** Hazard Communication Standard requires adding disinfectants to the chemical inventory, obtaining the Safety Data Sheet, ensuring employees are trained, PPE is used, and spill response and disposal protocols are in place.

Elements of the ETS

» **Health screening and medical management**:

(1) Screen employees before each workday and shift;

(2) Require each employee to promptly notify the employer when the employee is COVID-19 positive, suspected of having COVID-19, or experiencing certain symptoms;

(3) Notify certain employees within 24 hours when a person who has been in the workplace is COVID-19 positive;

(4) Follow requirements for removing employees from the workplace;

(5) Employers with more than 10 employees, provide medical removal protection benefits in accordance with the standard to workers who must isolate or quarantine.

Elements of the ETS

- **Vaccination:** Provide reasonable time and paid leave for vaccinations and vaccine side effects.
- **Training**: Ensure all employees receive training so they comprehend COVID-19 transmission, tasks and situations in the workplace that could result in infection, and relevant policies/procedures. Repeat training is required when risks, PPE, disinfectants and policies/procedures change.
- **Anti-Retaliation**: Inform employees of their rights to the protections required by the standard and do not discharge or in any manner discriminate against employees for exercising their rights under the ETS or for engaging in actions required by the standard.

Elements of the ETS

- Requirements must be implemented at no cost to employees.
- **Recordkeeping:** Establish a COVID-19 log (if more than 10 employees) of all employee instances of COVID-19 without regard to occupational exposure and follow requirements for making records available to employees/representatives.
- **Report** work-related COVID-19 fatalities and in-patient hospitalizations to OSHA regardless of when the work-related exposure occurred.

Timeline and Enforcement

- Most elements of ETS must be implemented by July 6, 2021
- Except physical barriers, ventilation and training which must be implemented by July 21, 2021.
- State OSHA plans must be adopted by July 21, 2021.
- COVID-19-specific ETS makes clear OSHA's authority to separately cite employers for each instance of the employer's failure to protect employees and for each affected employee, where appropriate.
- Serious vs willful citations
- $13,653 per **violation** vs $136,532 per **violation**

References

- Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic Updated 2/23/21

https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html#previous

- COVID-19 ETS Materials Incorporated by Reference in § 1910.502

https://www.osha.gov/coronavirus/ets/ibr

Discusses CDC cleaning and disinfection guidance, COVID-19 Infection prevention and control guidelines, ventilation, return to work and other key topics.

- ETS Implementation Tools and Checklists – including sample COVID 19 plan template, worksite hazard assessment, screening checklists and

  respiratory plan templates and training tips.

https://www.osha.gov/coronavirus/ets

Questions?

Thank you!

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