



Planning for OSHA Inspection During COVID-19 (ETS)

Do we have to keep the COVID log if we are exempt?

No, the COVID-19 log was to be used as an aid for identifying outbreaks in the facility. It is not a replacement for the 300 OSHA log, if you are required to keep one. [There are two classes of employers who are exempt:](#)

1. Employers with 10 or fewer employees
2. [As of January 2015, physician offices](#) are no longer required to keep a 300 log, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS.

All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality, in-patient hospitalization, amputation, or loss of an eye (see § [1904.39](#)).

However, if you are not exempt the partial exemption under OSHA's recordkeeping regulation, must comply with the recordkeeping requirements if you have more than 10 employees on the effective date of the ETS.

How can it be determined that an employee contracted COVID at the workplace when they can get COVID anywhere?

It is now difficult to determine where the employee contracted COVID-19 with the increase in cases of the Delta variant. There may be additional information coming from OSHA on this topic in the future.

Recommendations for making a determination: If there is a known exposure in the workplace, then likely the employee contracted at work; if known exposure at home and none at work then likely exposure occurred at home. Use judgement based on the circumstances and if no known exposures in either then it may be safest to assume it was work related unless proven otherwise.



Do we need to report an employee hospitalization and/or death if they contracted COVID outside of work?

No, only work-related cases and/or deaths need to be reported to OSHA.

Do we have to report work from home employees who are hospitalized or die from COVID if they don't have contact with other employees or patients?

We don't think so, but Curi is reaching out to OSHA to clarify and will update the answer once we hear back from OSHA.

We are not exempt from the ETS, so do we have to remove the employee from the workplace and pay them regardless of whether an employee is infected at work or outside of the workplace?

[OSHA-ETS FAQ # 75](#)

Yes. Requirements for medical removal protection benefits under the ETS do not depend on where the employee was infected.

[ETS FAQ # 73](#)

Obligations to pay the removed employee depend on the size of the employer:

- 1) Employers with 10 or fewer employees on the date that the ETS becomes effective are not required to maintain pay for removed employees.

If exempt, do you have to put cases on your 300 forms?

If you are required to keep an OSHA 300 log, you need to put cases on the log whether you are exempt or not.

When doing respirator-fit testing in an outpatient facility, do you have to use the spray as demonstrated in videos, or is testing employees for seal without spray acceptable?

The saccharin or Bittrex spray is required when doing fit testing; otherwise, you cannot tell if you have a tight seal. Refer to fit testing protocols required by [1910.134 Respiratory Protection](#).



Where can we find the spray to do fit testing?

- A qualitative fit testing kit will be required to perform this procedure. Fit testing kits can be found online from numerous suppliers by running an online search using the terms “qualitative fit testing kit.”
- Fit test kits are also available on Amazon as well as from companies that sell N95 masks, such as 3M.
- Instructions should be included with the fit test kit.
- [Summary of fit testing requirements.](#)

Can you explain who might be exempt from ETS?

As [outlined in the ETS](#), exempt facilities/services include:

- 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, 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, 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).
- Telehealth services performed outside of a setting where direct patient care occurs.
- Retail pharmacies where only prescriptions are filled.

We are screening patients, and we have a policy in place that all employees must be vaccinated and wear masks when moving around the office. Should we still be screening employees?

Yes, employees may have breakthrough infections. OSHA ETS requires screening of everyone entering your facility to limit contact with potentially infectious individuals, including employees. Screening is required to ensure sick employees are not at work. You may choose to have employees self-monitor.



What should be documented in an employee daily screening before coming to work?

OSHA does not require any specific form of documentation.

[ETS FAQ #51](#)

Employers have discretion in choosing whether to implement self-monitoring or in-person screening; an employer can also choose to utilize both methods. Employers who choose to have employees self-monitor for COVID-19 symptoms can assist employees in that effort by providing them with a short fact sheet to remind them of the symptoms of concern.

Employers may also consider posting a sign stating that any employee entering the workplace certifies that they do not have symptoms of COVID-19, to reinforce the obligation to self-screen before entering the workplace.

Employers who choose to conduct in-person employee screening for COVID-19 symptoms may use methods such as temperature checks and asking the employee if they are experiencing symptoms consistent with COVID-19. Employers should conduct this screening before employees come into contact with others in the workplace, such as co-workers, patients, or visitors.

We have multiple independent practices owned by the same organization. Our corporate office has not provided us with a COVID plan and determined we are all exempt. Should all practices be doing the same thing or have the same COVID plan in place to be exempt?

Each practice is required to complete the Hazard Assessment checklist to document they are exempt. CMS requires an infection prevention plan for infectious diseases as does the OSHA General Duty clause. We suggest that the hazard assessment be completed for each practice and consider using the ETS template ([COVID-19 Plan Template](#)) to indicate those elements that are still required by OSHA General Duty Clause and CDC, even if the practices are exempt from the ETS. See this [checklist for exempt vs. non-exempt](#).

If we have fewer than 10 employees, do we have to have a ETS plan?

Yes, but it is not required to be in writing. It can be very difficult to train new employees without a written, consistent message for implementation of the ETS elements.



Are nebulizer treatments considered aerosol-generating procedures (AGPs)?

Under the ETS, only the following procedures are considered AGPs:

- Open suctioning of airways;
- Sputum induction;
- Cardiopulmonary resuscitation;
- Endotracheal intubation and extubation;
- Non-invasive ventilation (e.g., BiPAP, CPAP);
- Bronchoscopy;
- Manual ventilation;
- Medical/surgical/postmortem procedures using oscillating bone saws; and
- Dental procedures involving:
 - Ultrasonic scalers,
 - High-speed dental hand pieces,
 - Air/water syringes,
 - Air polishing, and
 - Air abrasion.

According to the [American Association for Respiratory Care](#), nebulizer treatments may be AGPS. A risk assessment should be conducted to determine when a patient receiving nebulizer treatments may also have signs and symptoms of COVID-19 and N95 masks would be required.

How long are we required to wait to use an exam room (after cleaning) between patients?

The wait time depends on the number of air exchanges and the diagnosis of the patient. Have the air exchanges determined and [consult the CDC chart](#) for times. For non-COVID-19/non-symptomatic patients, there would not be any additional wait time required. Cleaning can be conducted by personnel as one would normally clean between patients.

Appendix B. Air

1. Airborne Contaminant Removal

Table B.1. Air changes/hour (ACH) and time required for airborne-contaminant removal by efficiency *

ACH § ¶	Time (mins.) required for removal: 99% efficiency	Time (mins.) required for removal: 99.9% efficiency
2	138	207
4	69	104
6*	46	69
8	35	52
10*	28	41
12*	23	35
15*	18	28
20	14	21
50	6	8



A free standing HEPA filter machine would improve the rate of air exchanges.

[ETS FAQ #41](#)

Cleaning and disinfecting must be done in accordance with the CDC’s [“Cleaning and Disinfecting Guidance.”](#) This includes closing off areas used by the sick person and waiting at least several hours before cleaning and disinfecting. This also includes opening outside doors and windows or using other methods to increase air circulation when feasible, using products from EPA’s “List N,” and wearing a facemask and gloves. If a person who is COVID-19 positive has occupied the space, all potentially-contaminated surfaces (regardless of touch frequency) need to be cleaned and disinfected. Only after the space has been cleaned and disinfected can it be reopened for use.

Do you have to use N95 masks that require fit testing if you are testing patients outside?

Yes, N95 masks are required for all patient contacts who are potentially infected with COVID-19.

Are KN95 mask acceptable?

KN95 masks are suitable as substitutes for procedure masks but no longer for N95 masks. The FDA [revoked the EUA for all non-NIOSH-approved N95 masks](#) on June 30, 2021, because of the improved supply NIOSH-approved N95 masks. KN95 masks are made in China, and an ECRI study indicated that more than 30% of them failed the required fit test for N95 masks.

Can you wear goggles instead of a face shield?

Yes, but goggles will not protect the mask you are wearing from splashes and sprays.

If you are performing in-office procedures, should we wear N95 mask and face shields?

It depends on the office procedures being performed. If performing procedures on suspected or confirmed COVID-19 positive patients or aerosolized procedures on any patients, you should wear N95 mask and face shields or goggles.



What credentials should the OSHA compliance office present to us?

The onsite inspection begins with the compliance officer's credentials, which includes both a photograph and a serial number.

Can we have a private call with Dr. Marge MacFarlane regarding any questions or help we might need related to OSHA ETS?

Yes, the best way to contact Dr. Marge MacFarlane is her website: www.margemcfarlane.com. Submit a consult request or make a phone appointment via calendly link on the website.

How can we access Curi's COVID-19 command center?

Curi's COVID-19 Practice Command Center is linked here: <https://curi.com/covid-19/>.