

# COVID-19 Emergency Temporary Standard for Healthcare

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**June 21, 2021**

# Topics

- Topics are:
  - Scope of 29 CFR 1910 Subpart U
  - Requirements for Healthcare 29 CFR 1910.502
  - Mini Respiratory Protection Program 29 CFR 1910.504
  - Incorporation by Reference 29 CFR 1910.509

*NOTE: OSHA has also updated its Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace for all industries*

# Emergency Temporary Standard

- ETS
  - Determination that healthcare and healthcare support employees face a grave danger from COVID-19
  - Ensure sufficient protection from COVID-19 hazard for healthcare employees
  - Inform employees of their rights against retaliation
- ETS effective dates
  - Effective immediately upon publication in Federal Register (June 21, 2021)
    - Most provisions effective: 14 days after publication (July 6, 2021)
    - Remaining provisions effective: 30 days after publication (July 21, 2021)

# Topic 1

## Scope/Organization of Subpart U

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## Subpart U Applies to:

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- Healthcare

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## Organization of Subpart U

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- Healthcare, 1910.502
- Mini Respiratory Protection Program, 1910.504
- Severability, 1910.505
- Incorporation by Reference, 1910.509

# Topic 2

## Requirements for Healthcare

# Definitions

- **Healthcare Services** mean services that are provided to individuals by professional healthcare practitioners (e.g., doctors, nurses, emergency medical personnel, oral health professionals) for the purpose of promoting, maintaining, monitoring, or restoring health. Healthcare services are delivered through various means including: hospitalization, longterm care, ambulatory care, home health and hospice care, emergency medical response, and patient transport. For the purposes of this section, healthcare services include autopsies.
- **Healthcare Support Services** mean services that facilitate the provision of healthcare services. Healthcare support services include patient intake/admission, patient food services, equipment and facility maintenance, housekeeping services, healthcare laundry services, medical waste handling services, and medical equipment cleaning/reprocessing services.

# Healthcare - 1910.502 (a) Scope and Application

- Applies to healthcare worksites where any employee provides health care services or healthcare support services:
  - Hospitals
  - Nursing homes/Long-term care facilities
  - EMTs
  - Healthcare settings embedded in a non-healthcare setting (e.g., medical clinic in a manufacturing facility; walk-in clinic in a retail setting)
  - Autopsy settings in funeral homes, mortuaries, and morgues

*NOTE: Where EMTs or other licensed healthcare providers enter a non-healthcare setting to provide healthcare services, only the provision of healthcare services by that employee is covered.*

# Healthcare – 1910.502 (a) (continued)

- Does not apply to:
  - Provision of first aid by non-licensed provider
  - Dispensing of prescriptions by pharmacists in retail settings
  - Non-hospital ambulatory care settings **if** non-employees are screened
  - Hospital ambulatory care settings **if** well-defined area, all workers fully vaccinated, non-employees are screened
  - Home healthcare settings **if** all workers fully vaccinated, non-employees screened
  - Off-site healthcare support services
  - Telehealth services outside of direct patient care settings

# 1910.502 (a) - COVID-19 Plan (continued)

- In well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present, paragraphs (f) PPE, (h) physical distancing, and (i) physical barriers do not apply to employees who are fully vaccinated.

# Examples of Applicability of 1910.502

## Example using clinic in a manufacturing facility:

- **1910.502 applies** to the nurse's duties whether in the clinic or out on the plant floor
- **1910.502 does not apply** to other employees in the manufacturing facility when the nurse is providing healthcare on the plant floor

## Example using a pharmacy embedded in a general merchandise store:

- **1910.502 applies** to the pharmacist/staff performing medical processes/procedures
- **1910.502 does not apply** to dispensing of prescriptions or to the general merchandise part of the store

# Overview of Requirements for Healthcare

- COVID-19 plan
- Patient screening and management
- Standard and Transmission-Based Precautions
- Personal protective equipment (PPE)
- Aerosol-generating procedures on a person with suspected or confirmed COVID-19
- Physical distancing/Physical barriers
- Cleaning and disinfection

# Overview of Requirements for Healthcare (continued)

- Ventilation
- Health screening and medical management
- Vaccination
- Training
- Anti-retaliation
- Requirements implemented at no cost to employees
- Recordkeeping
- Reporting COVID-19 fatalities and hospitalizations to OSHA

# 1910.502 (c) - COVID-19 Plan

- Developed and implemented for each workplace
- In writing if > 10 employees
- Document designated safety coordinator(s) that will implement and monitor the plan
- Conduct a workplace-specific hazard assessment
- If the hazard assessment is based on employees' fully vaccinated status, the plan must include procedures to determine vaccination status

# 1910.502 (c) - COVID-19 Plan (continued)

- Seek the input of non-managerial employees and their representatives
- Monitor ongoing effectiveness and update it as needed
- Procedures to address the hazards identified:
  - Minimize the risk of transmission
  - Effectively communicate and coordinate with other employers
  - Protect employees who in the course of their employment enter into private residences or other physical locations controlled by a person not covered by the OSH Act

# 1910.502 (d) - Patient Screening and Management

- In settings where direct patient care is provided, the employer must:
  - Limit and monitor points of entry
  - Screen and triage all entrants
  - Implement other applicable patient management strategies in accordance with CDC’s “COVID-19 Infection Prevention and Control Recommendations”

Examples include:

- Telehealth, where applicable
- Isolate patients in exam rooms
- Use distancing and barriers in waiting rooms

# 1910.502 (e) - Standard and Transmission-Based Precautions

- Employers must adhere to Standard and Transmission-Based Precautions in accordance with CDC's "Guidelines for Isolation Precautions"

Examples include:

- Tight-fitting facemasks for patients
- Physical distancing
- Hand hygiene
- Ventilation
- Outdoor triage
- Isolation rooms

# 1910.502 (f) - Personal Protective Equipment (PPE)

- Facemasks
  - Facemasks must be FDA approved or authorized
  - Employers must provide sufficient number and ensure use
  - Cover nose and mouth when indoors and when occupying a vehicle with other people for work purposes
  - Provide a sufficient number to allow at least one change per day, whenever they are soiled or damaged, and more frequently as necessary
- Use of respirator when not required must comply with 1910.504

# 1910.502 (f) – PPE (continued)

- Facemask exceptions:
  - When an employee is alone in a room
  - While an employee is eating and drinking if at least 6 feet away or barriers used
  - When employees are wearing respiratory protection
  - When it is important to see a person's mouth, In such situations, must ensure employee wears an alternative (e.g. face shield) if the conditions permit it.
  - Due to a medical necessity, medical condition, or disability
  - When use of a facemask presents a hazard to an employee of serious injury or death (e.g., interfering with the safe operation of equipment)

## 1910.502 (f) - PPE (continued)

- Respirators and other PPE for exposure to people with suspected or confirmed COVID-19
  - Respirators provided and used in accordance with § 1910.134
  - Gloves, an isolation gown or protective clothing, and eye protection provided and used in accordance with 1910 Subpart I
- Note to paragraph (f)(2): When limited supply of FFRs, employers may follow the CDC's "Strategies for Optimizing the Supply of N95 Respirators"

## 1910.502 (f) - PPE (continued)

- Respirators and other PPE based on Standard and Transmission-Based Precautions.
- Use of respirators when not required.
  - The employer may provide a respirator instead of a facemask if following 1910.504.
  - Employers must permit the employee to wear their own respirator instead of a facemask used in accordance with 1910.504.

# 1910.502 (f) & (g) – Aerosol-generating Procedures on a Person with Suspected or Confirmed COVID-19

- Respirators provided and used in accordance with § 1910.134
- Gloves, an isolation gown or protective clothing, and eye protection provided and used in accordance with Subpart I
- Limit the number of employees present during the procedure to only those essential for patient care and procedure support.
- Perform the procedure in an aerosol infection isolation room (AIIR)
- After the procedure is completed, clean and disinfect the surfaces and equipment

# 1910.502 (h) - Physical Distancing

- Each employee is separated from all other people by at least 6 feet when indoors
- If not feasible for a specific activity (e.g., hands-on medical care), ensure that the employee is as far apart from all other people as is feasible

# 1910.502 (i) - Physical Barriers

- At each fixed work location outside of direct patient care areas where 6 feet of distance is not feasible, the employer must install cleanable or disposable solid barriers
- Barriers must be sized and located to block face-to-face pathways between individuals
- Barrier may have a pass-through space at the bottom

# 1910.502 (j) - Cleaning and Disinfection

- In patient care areas, resident rooms, and for medical devices and equipment, follow standard practices for cleaning and disinfection in accordance with CDC's "COVID-19 Infection Prevention and Control Recommendations" and CDC's "Guidelines for Environmental Infection Control"

Examples include:

- Dedicated medical equipment for infected patients
- Use pathogen-appropriate EPA registered disinfectants

# 1910.502 (j) - Cleaning and Disinfection (continued)

- In all other areas, the employer must:
  - Clean high-touch surfaces and equipment 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 CDC’s “Cleaning and Disinfecting Guidance” (incorporated by reference, § 1910.509), any areas, materials, and equipment under the employer’s control that have likely been contaminated by the person who is COVID-19 positive
- The employer must provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible hand washing facilities

# 1910.502 (k) - Ventilation

- Employer-owned or controlled buildings with existing HVAC systems
  - Follow manufacturer's instructions/specifications
  - Maximize outside air and air changes per hour, as appropriate
  - Use air filters with  $MERV \geq 13$ , if compatible with system
  - Replace filters as necessary
  - Maintain clearance of outside air intakes

# 1910.502 (k) - Ventilation (continued)

- Airborne infection isolation rooms (AIIR)
  - Maintain and operate in accordance with design/construction criteria
- Note: Consider other measures to increase ventilation in CDC's "Ventilation Guidance"

# 1910.502 (I) - Health Screening and Medical Management

- Screening of employees
  - Before each workday and each shift
  - Self-monitoring or conducted in-person by employer
  - Any required screening COVID-19 tests at no cost to employees
- Employee notification to employer of COVID-19 illness or symptoms
  - Confirmed positive test, diagnosis
  - Suspected diagnosis (told by HCP)
  - Recent loss of taste and/or smell
  - Fever  $\geq 100.4$  °F and new unexplained cough with shortness of breath

# 1910.502 (I) - Health Screening and Medical Management (continued)

- Employer notification to employees of COVID-19 exposure
  - Triggered by any positive person in the workplace (except patients in worksites where services normally provided to COVID-19 patients)
  - Within 24 hours
  - Each employee not wearing respirator/other required PPE
    - Who had close contact: dates that contact occurred
    - Who worked in a portion of the workplace in which that person was present during potential transmission period: dates the person was in the workplace

# 1910.502 (I) - Health Screening and Medical Management (continued)

- Notification of other employers whose employees were not wearing respirators/other required PPE
  - Who had close contact
  - Who worked in a portion of the workplace in which the person was present during the potential transmission period

# 190.502 (I) - Medical Removal

- Persons meeting positive test/diagnosis criteria: immediately removed until they meet return to work criteria
- Persons meeting suspected diagnosis/symptom criteria: immediately removed until they meet return to work criteria or have a negative PCR test
- Persons with close contact must be removed immediately either:
  - For 14 days, or
  - Until they have a negative PCR test taken after at least 5 days, or
  - Exemption: if asymptomatic and fully vaccinated or recovered from COVID-19 in the past 3 months
- Working remotely or in isolation is acceptable alternative to removal

# 1910.502 (I) - Medical Removal Protection Benefits

- Employers with  $\leq 10$  employees exempt from removal pay
- Working remotely or in isolation: same pay and benefits
- Removed employees maintain regular pay and benefits:
  - Up to \$1400 per week
  - Employers with  $< 500$  employees: in third week of removal, limited to only 2/3 of pay up to \$200 per day
  - Payment reduced by compensation from any other source
- Return to work: same job status, rights, and benefits

# 1910.502 (I) - Return to Work Criteria

- Guidance from licensed health care provider, or
- Use of CDC's "Isolation Guidance" and "Return to Work Healthcare Guidance"

# 1910.502 (m) - Vaccination

- The employer must support vaccination by providing reasonable time and paid leave
  - For vaccination
  - For any side effects experienced following vaccination

# 1910.502 (n) - Training

- Each employee, in language and literacy level the employee understands
- Content
  - COVID-19: transmission, hygiene, ways to reduce risk of spread, signs and symptoms, risk factors for severe illness, when to seek medical care
  - Employer-specific policies and procedures on patient screening and management
  - Workplace tasks and situations that could result in infection
  - Workplace policies and procedures for preventing the spread
  - Multi-employer workplace agreements related to infection control policies and procedures

# 1910.502 (n) - Training (continued)

- Content (continued)
  - Policies and procedures for PPE
  - Workplace policies and procedures for cleaning and disinfection
  - Workplace policies and procedures for health screening and medical management
  - Sick leave policies
  - The identity of the safety coordinator(s) specified in the plan
  - Details of the standard and how the employee can obtain copies as well as copies of employer-specific policies and procedures
- Note: May rely on training completed prior to the effective date if it meets the relevant training requirements.

# 1910.502 (n) - Training (continued – 2)

- Additional training
  - Changes in the workplace or employee’s job
  - Changes in policies or procedures
  - Indications that the employee has not retained understanding or skill
- Training oversight or provision by a person knowledgeable in the subject matter related to employee’s job duties
- Opportunity for interactive questions and answers

# 1910.502 (o) - Anti-Retaliation

- Employers must
  - Inform employees of their right to protections
  - Not discharge or discriminate against any employee for exercising rights under the standard

# 1910.502 (p) - Requirements Implemented at No Cost to Employees

- Implementation of requirements is at no cost to employees
- Exception: employee self-monitoring for signs/symptoms of infection

# 1910.502 (q) - Recordkeeping

- Exemption: Employers with  $\leq 10$  employees
- Required records
  - All versions of COVID-19 plan
  - Log of COVID-19 positives (regardless of whether work-related)
    - Employee's name, contact information, occupation, location of work, date of last day at workplace, date of positive test or diagnosis, first date of symptoms if any
    - Recorded within 24 hours of the employer learning that the employee is COVID-19 positive

# 1910.502 (q) - Recordkeeping (continued)

- Available by end of next business day after a request
  - COVID-19 plan: to employees, personal representatives, authorized representatives
  - Individual COVID-19 log entry for a particular employee: to the employee, anyone having written authorized consent from employee
  - Redacted version of COVID-19 log with personally identifying information removed: to any employee, personal representatives, authorized representatives
  - All records: to the Assistant Secretary

# 1910.502 (r) - Reporting COVID-19 Fatalities and Hospitalizations to OSHA

- Work-related COVID-19 fatalities within 8 hours of learning of the fatality
- Work-related in-patient hospitalizations within 24 hours of learning of the hospitalization

# 1910.502 (s) – Compliance Dates

- ETS effective immediately upon publication in FR (**June 21, 2021**)
- Comply with all requirements except paragraphs (i), (k), and (n) of this section by 14 days after publication in FR. (**July 6, 2021**)
- (ii) Employers must comply with paragraphs (i), (k), and (n) of this section by 30 days after publication in FR. (**July 21, 2021**)

# Topic 3

## Mini Respiratory Protection Program

# 1910.504 - Mini Respiratory Protection Program

- Applies only to respirator use in accordance with 1910.502(f)(4): *Use of respirators when not required*
  - When the employer provides a respirator to the employee instead of a facemask as required by (f)(1)
  - When an employee provides their own respirator instead of a facemask required by (f)(1)

# Key Elements of Mini Respiratory Program vs. Respiratory Protection Standard

Key Program Element	Mini RPP (1910.504)	Normal RPP (1910.134)
Medical Evaluation	No	<b>Yes</b>
Fit Testing	No	<b>Yes</b>
Written Program	No	<b>Yes</b>
User Seal Checks	<b>Yes</b>	<b>Yes</b>
Training	<b>Yes</b>	<b>Yes</b>

# Applicability – Mini Respirator Protection Program vs. Respiratory Protection Standard

Healthcare	.504	.134
1910.502(f)(2) – for exposure with suspected/confirmed COVID-19	No	<b>Yes</b>
1910.502(f)(3) – for AGP <sup>1</sup> on person with suspected/confirmed COVID-19	No	<b>Yes</b>
1910.502(f)(4) – in place of facemask when respirator is not required	<b>Yes</b>	No
1910.502(f)(5) – for Standard and Transmission/Based Precautions/good biosafety practices	No	<b>Yes</b>

<sup>1</sup>AGP = aerosol-generating procedure

# 1910.504 (c) - Responsibilities of Employers When Workers Provide Their Own Respirators

- Provide workers with notice in 1910.504(c) – informs them to take precautions to be sure the respirator itself does not present a hazard

# 1910.504 (d) - Training Responsibilities of Employers When They Provide Respirators to Workers

- Provide specific training, e.g.,
  - How to inspect/put on/remove/use a respirator
  - Limitations and capabilities of the respirator
  - How to store/maintain/inspect a respirator
  - How to conduct a user seal check
  - How to recognize medical signs/symptoms and what to do
- Training must be in appropriate language and literacy level

# 1910.504 (d) - Other Responsibilities of Employers When They Provide Respirators to Workers

- Ensure that user seal checks are conducted for tight-fitting respirators and that any problems discovered are corrected
- Ensure that if respirators are reused, they are reused properly
- Ensure the discontinuation of respirator when employee or supervisor reports medical signs or symptoms related to ability to wear a respirator.

# 1910.509 – Incorporation by Reference

- The material listed in this section is incorporated by reference into this subpart
- To enforce any edition other than that specified in this section, OSHA must publish a document in the Federal Register and the material must be available to the public

# Connect with OSHA

- **OSHA COVID-19 Website:** <https://www.osha.gov/coronavirus/>
- **Subscribe to QuickTakes:** OSHA's online newsletter provides the latest news about enforcement actions, rulemaking, outreach activities, compliance assistance, and training and educational resources.  
<https://www.osha.gov/quicktakes/>
- **Call OSHA** to report emergencies, unsafe working conditions, safety and health violations, to file a complaint, or to ask safety and health questions.  
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