

LEGAL NOTICE  
Notice of Emergency Temporary Standards  
Adoption Notice

Notice is hereby given of adoption of emergency temporary standards (ETS) by the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH) pursuant to Hawaii Administrative Rules (HAR) § 12-54-7 and Hawaii Revised Statutes (HRS) § 396-4, wherein an ETS may be adopted without conforming to HRS Chapter 91 and without hearings to take immediate effect upon giving a statewide public notice of the ETS or upon any other date that may be specified in the notice.

On June 21, 2021, the federal Occupational Safety and Health Administration (OSHA) issued an ETS to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present. Federal OSHA's ETS is codified as 29 CFR 1910, Subpart U, and includes:

- 29 CFR § 1910.502: Healthcare
- 29 CFR § 1910.504: Mini Respiratory Protection Program
- 29 CFR § 1910.505: Severability
- 29 CFR § 1910.509: Incorporation by reference

Under section 18(b) of the Operational Status Agreement between federal OSHA and HIOSH and 29 CFR § 1953.5(b), HIOSH is required to adopt worker protections "at least as effective as" worker protections adopted by federal OSHA. Further, the Director of Labor and Industrial Relations has determined that, under HRS § 396-4(a)(2), the ETS should be adopted because Hawaii's employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and an emergency standard is necessary to protect employees from danger. Therefore, HIOSH adopts federal OSHA's ETS as HAR § 12-60-51, as follows:

§12-60-51 Emergency Temporary Standard. (a) Incorporation of federal emergency temporary standard. Title 29, Part 1910, Subpart U of the Code of Federal Regulations, published in the Federal Register on June 21, 2021 in Volume 86, Number 116, is made a part of this chapter except as provided in subsections (b) through (e).

(b) State specific effective date. The emergency temporary standard is effective from July 25, 2021 to January 25, 2022.

(c) State specific reporting procedure. The following standards are in effect in addition to those adopted by subsection (a). Where standards on a particular item exist in both subsection (a) and this subsection, the standards contained in this subsection supersede the standards in subsection (a).

(1) 29 CFR § 1910.502(r)(1) is amended to read as follows: The employer must report to HIOSH.

(2) 29 CFR § 1910.502(r)(2) is amended to read as follows: When reporting COVID-19 fatalities and in-patient hospitalizations to HIOSH in accordance with paragraph (r)(1) of this section, the employer must follow the requirements in HAR § 12-52.1-1 and HAR § 12-52.1-2.

(d) State specific dates. The following standards are in effect in addition to those adopted by subsection (a). Where standards on a particular item exist in both subsection (a) and this subsection, the standards contained in this subsection supersede the standards in subsection (a).

(1) 29 CFR § 1910.502(s)(1) is amended to read as follows: Effective date. This section is effective as of July 25, 2021.

(2) 29 CFR § 1910.502(s)(2)(i) is amended to read as follows: Employers must comply with all requirements of this section, except for requirements in paragraphs (i), (k), and (n) of this section, by August 8, 2021.

(3) 29 CFR § 1910.502(s)(2)(ii) is amended to read as follows: Employers must comply with the requirements of this section in paragraphs (i), (k), and (n) of this section by August 25, 2021.

(e) State specific effective date of the mini respiratory protection standard. 29 CFR § 1910.504(e) is amended to read as follows: Effective date. This section is effective as of July 25, 2021.

The ETS is effective from July 25, 2021 to January 25, 2022. The ETS will be made available for public access from the first day that this notice appears in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, The Garden Island, and on the HIOSH website at:

<http://labor.hawaii.gov/hiosh/standards/>.

Individuals may request a hard copy of the ETS from HIOSH by written request mailed to 830 Punchbowl Street, Room 425, Honolulu, Hawaii, 96813, by electronic mail at [dlir.hiosh@hawaii.gov](mailto:dlir.hiosh@hawaii.gov), or by telephone at (808) 586-9116. A hard copy of the ETS will be mailed to any individual who requests a hard copy and pays ten cents per page plus postage.

Dated: 07/25/21

ANNE E. PERREIRA-EUSTAQUIO  
Director of Labor and Industrial Relations