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# Emergency Rule Filing Form

*Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.*

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**Revision Type (check all that apply):**

☐ Amendment  
☒ New  
☐ Repeal

**Statement of Necessity:**

Federal OSHA has determined that healthcare employees face a grave danger from the new hazard of workplace exposures to SARS-CoV-2 except under a limited number of situations (e.g., a fully vaccinated workforce in a breakroom). The virus is both a physically harmful agent and a new hazard, and it can cause severe illness, persistent health effects, and death (morbidity and mortality, respectively) from the subsequent development of the disease, COVID-19. The protections of this emergency rule which will apply, with some exceptions, to healthcare settings where people may share space with COVID-19 patients or interact with others who do—are designed to protect employees from infection with SARS-CoV-2 and from the dire, sometimes fatal, consequences of such infection. The rule satisfies Tennessee OSHA's obligation to maintain a program "at least as effective" as Federal OSHA by implementing a rule similar to Federal OSHA's emergency temporary standard on COVID-19. Failure to implement this emergency rule could result in the loss of federal funds and the federal takeover of the TN-OSHA administration.

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)**

Chapter Number	Chapter Title
0800-01-12	Occupational Safety and Health Standards Covid-19 Emergency Temporary Rule
Rule Number	Rule Title
0800-01-12-.01	Scope and Application.
0800-01-12-.02	Definitions.
0800-01-12-.03	COVID-19 Plan.
0800-01-12-.04	Patient Screening and Management.
0800-01-12-.05	Standard and Transmission-Based Precautions.
0800-01-12-.06	Personal Protective Equipment (PPE).
0800-01-12-.07	Aerosol-Generating Procedures on a Person with Suspected or Confirmed COVID-19.
0800-01-12-.08	Physical Distancing.
0800-01-12-.09	Physical Barriers.
0800-01-12-.10	Cleaning and Disinfection.
0800-01-12-.11	Ventilation.
0800-01-12-.12	Health Screening and Medical Management.

0800-01-12-.13	Vaccination.
0800-01-12-.14	Training.
0800-01-12-.15	Anti-Retaliation.
0800-01-12-.16	Requirements Implemented at no Cost to Employees.
0800-01-12-.17	Recordkeeping.
0800-01-12-.18	Reporting COVID–19 Fatalities and Hospitalizations to Tennessee OSHA.
0800-01-12-.19	Dates.
0800-01-12-.20	Mini Respiratory Protection Program.
0800-01-12-.21	Incorporation by Reference.
0800-01-12-.22	Severability.

Chapter 0800-01-12  
Occupational Safety and Health Standards  
Covid-19 Emergency Temporary Rule

Table of Contents

0800-01-12-.01	Scope and Application.	0800-01-12-.12	Health Screening and Medical Management.
0800-01-12-.02	Definitions.	0800-01-12-.13	Vaccination.
0800-01-12-.03	COVID-19 Plan.	0800-01-12-.14	Training.
0800-01-12-.04	Patient Screening and Management.	0800-01-12-.15	Anti-Retaliation.
0800-01-12-.05	Standard and Transmission-Based Precautions.	0800-01-12-.16	Requirements Implemented at no Cost to Employees.
0800-01-12-.06	Personal Protective Equipment (PPE).	0800-01-12-.17	Recordkeeping.
0800-01-12-.07	Aerosol-Generating Procedures on a Person with Suspected or Confirmed COVID–19.	0800-01-12-.18	Reporting COVID–19 Fatalities and Hospitalizations to Tennessee OSHA.
0800-01-12-.08	Physical Distancing.	0800-01-12-.19	Dates.
0800-01-12-.09	Physical Barriers.	0800-01-12-.20	Mini Respiratory Protection Program.
0800-01-12-.10	Cleaning and Disinfection.	0800-01-12-.21	Incorporation by Reference.
0800-01-12-.11	Ventilation.	0800-01-12-.22	Severability.

0800-01-12-.01 Scope and Application.

- (1) Except as otherwise provided in this paragraph, this rule applies to all settings where any employee provides healthcare services or healthcare support services.
- (2) This rule does not apply to the following:
  - (a) The provision of first aid by an employee who is not a licensed healthcare provider;
  - (b) The dispensing of prescriptions by pharmacists in retail settings;
  - (c) 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;
  - (d) 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;
  - (e) 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;
  - (f) Healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing); or

- (g) Telehealth services performed outside of a setting where direct patient care occurs.

Note to paragraph (2). The Division does not intend to preclude the employers of employees who are unable to be vaccinated from the scope exemption in paragraphs (2)(d) and (e) of this rule. Under various anti-discrimination laws, workers who cannot be vaccinated because of medical conditions, such as allergies to vaccine ingredients, or certain religious beliefs may ask for a reasonable accommodation from their employer. Accordingly, where an employer reasonably accommodates an employee who is unable to be vaccinated in a manner that does not expose the employee to COVID-19 hazards (e.g., telework, working in isolation), that employer may be within the scope exemption in paragraphs (2)(d) and (e) of this rule.

(3) Settings

- (a) Where a healthcare setting is embedded within a non-healthcare setting (e.g., medical clinic in a manufacturing facility, walk-in clinic in a retail setting), this rule applies only to the embedded healthcare setting and not to the remainder of the physical location.
- (b) Where emergency responders or other licensed healthcare providers enter a non-healthcare setting to provide healthcare services, this rule applies only to the provision of the healthcare services by that employee.
- (4) In well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present, rules .06, .08, and .09 of this chapter do not apply to employees who are fully vaccinated.

Note 1 to paragraph (1): Nothing in this rule is intended to limit state or local government mandates or guidance (e.g., executive order, health department order) that go beyond the requirements of and are not inconsistent with this rule.

Note 2 to paragraph (1): Employers are encouraged to follow public health guidance from the Centers for Disease Control and Prevention (CDC) even when not required by this rule.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.02 Definitions.

- (1) "Aerosol-generating procedure" means a medical procedure that generates aerosols that can be infectious and are of respirable size. For the purposes of this chapter, only the following medical procedures are considered aerosol generating procedures: 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 handpieces; air/water syringes; air polishing; and air abrasion.
- (2) "Airborne infection isolation room (AIIR)" means a dedicated negative pressure patient-care room, with special air handling capability, which is used to isolate persons with a suspected or confirmed airborne-transmissible infectious disease. AIIRs include both permanent rooms and temporary structures (e.g., a booth, tent or other enclosure designed to operate under negative pressure).
- (3) "Ambulatory care" means healthcare services performed on an outpatient basis, without admission to a hospital or other facility. It is provided in settings such as: Offices of physicians and other health care professionals; hospital outpatient departments; ambulatory surgical centers; specialty clinics or centers (e.g., dialysis, infusion, medical imaging); and urgent care clinics. Ambulatory care does not include home healthcare settings for the purposes of this chapter.
- (4) "Assistant Commissioner" means the Assistant Commissioner for Occupational Safety and Health, Tennessee Department of Labor and Workforce Development, or designee.
- (5) "Clean/cleaning" means the removal of dirt and impurities, including germs, from surfaces using soap and water or other cleaning agents. Cleaning alone reduces germs on surfaces by removing

contaminants and may also weaken or damage some of the virus particles, which decreases risk of infection from surfaces.

- (6) "Close contact" means being within 6 feet of any other person for a cumulative total of 15 minutes or more over a 24-hour period during that person's potential period of transmission. The potential transmission period runs from 2 days before the person felt sick (or, for asymptomatic people, 2 days prior to test specimen collection) until the time the person is isolated.
- (7) "Common areas" means indoor or outdoor locations under the control of the employer that more than one person may use or where people congregate (e.g., building lobbies, reception areas, waiting rooms, restrooms, break rooms, eating areas, conference rooms).
- (8) "COVID-19 (Coronavirus Disease 2019)" means the respiratory disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2). For clarity and ease of reference, this chapter refers to "COVID-19" when describing exposures or potential exposures to SARS-CoV-2.
- (9) "COVID-19 positive" and "confirmed COVID-19" refer to a person who has a confirmed positive test for, or who has been diagnosed by a licensed healthcare provider with, COVID-19.
- (10) "COVID-19 symptoms" mean the following: Fever or chills; cough; shortness of breath or difficulty breathing; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea.
- (11) "COVID-19 test" means a test for SARS-CoV-2 that is:
  - (a) Cleared or approved by the U.S. Food and Drug Administration (FDA) or is authorized by an Emergency Use Authorization (EUA) from the FDA to diagnose current infection with the SARS-CoV-2 virus; and
  - (b) Administered in accordance with the FDA clearance or approval or the FDA EUA as applicable
- (12) "Direct patient care" means hands-on, face-to-face contact with patients for the purpose of diagnosis, treatment, and monitoring.
- (13) "Disinfect/disinfection" means using an EPA-registered, hospital-grade disinfectant on EPA's "List N" (incorporated by reference, Rule 0800-01-12-.21, in accordance with manufacturers' instructions to kill germs on surfaces.
- (14) "Elastomeric respirator" means a tightfitting respirator with a facepiece that is made of synthetic or rubber material that permits it to be disinfected, cleaned, and reused according to manufacturer's instructions. It is equipped with a replaceable cartridge(s), canister(s), or filter(s).
- (15) "Facemask" means a surgical, medical procedure, dental, or isolation mask that is FDA-cleared, authorized by an FDA EUA, or offered or distributed as described in an FDA enforcement policy. Facemasks may also be referred to as "medical procedure masks."
- (16) "Face shield" means a device, typically made of clear plastic, that:
  - (a) Is certified to ANSI/ISEA Z87.1 (incorporated by reference, Rule 0800-01-12-.21; or
  - (b) Covers the wearer's eyes, nose, and mouth to protect from splashes, sprays, and spatter of body fluids, wraps around the sides of the wearer's face (i.e., temple-to-temple), and extends below the wearer's chin.
- (17) "Filtering facepiece respirator" means a negative pressure particulate respirator with a non-replaceable filter as an integral part of the facepiece or with the entire facepiece composed of the nonreplaceable filtering medium.
- (18) "Fully vaccinated" means 2 weeks or more following the final dose of a COVID-19 vaccine.

- (19) "Hand hygiene" means the cleaning and/or disinfecting of one's hands by using standard handwashing methods with soap and running water or an alcohol-based hand rub that is at least 60% alcohol.
- (20) "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, long-term care, ambulatory care, home health and hospice care, emergency medical response, and patient transport. For the purposes of this chapter, healthcare services include autopsies.
- (21) "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.
- (22) "High-touch surfaces and equipment" means any surface or piece of equipment that is repeatedly touched by more than one person (e.g., doorknobs, light switches, countertops, handles, desks, tables, phones, keyboards, tools, toilets, faucets, sinks, credit card terminals, touchscreen-enabled devices).
- (23) "Physical location" means a site (including outdoor and indoor areas, a structure, or a group of structures) or an area within a site where work or any work-related activity (e.g., taking breaks, going to the restroom, eating, entering, or exiting work) occurs. A physical location includes the entirety of any space associated with the site (e.g., workstations, hallways, stairwells, breakrooms, bathrooms, elevators) and any other space that an employee might occupy in arriving, working, or leaving.
- (24) "Powered air-purifying respirator (PAPR)" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.
- (25) "Respirator" means a type of personal protective equipment (PPE) that is certified by NIOSH under 42 CFR part 84 or is authorized under an EUA by the FDA. Respirators protect against airborne hazards by removing specific air contaminants from the ambient (surrounding) air or by supplying breathable air from a safe source. Common types of respirators include filtering facepiece respirators, elastomeric respirators, and PAPRs. Face coverings, facemasks, and face shields are not respirators.
- (26) "Screen" means asking questions to determine whether a person is COVID-19 positive or has symptoms of COVID-19.
- (27) "Surgical mask" means a mask that covers the user's nose and mouth and provides a physical barrier to fluids and particulate materials. The mask meets certain fluid barrier protection standards and Class I or Class II flammability tests. Surgical masks are generally regulated by FDA as Class II devices under 21 CFR 878.4040—Surgical apparel.
- (28) "Vaccine" means a biological product authorized or licensed by the FDA to prevent or provide protection against COVID-19, whether the substance is administered through a single dose or a series of doses.
- (29) "Workplace" means a physical location (e.g., fixed, mobile) where the employer's work or operations are performed.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.03 COVID-19 Plan.

- (1) The employer must develop and implement a COVID-19 plan for each workplace. If the employer has multiple workplaces that are substantially similar, its COVID-19 plan may be developed by workplace type rather than by individual workplace so long as all required site-specific information is included in the plan.

Note to paragraph (1): For those employers who do not already have a COVID-19 plan in place, OSHA's website contains significant compliance assistance materials, including a model plan.

(2) If the employer has more than 10 employees, the COVID-19 plan must be written.

(3) The employer must designate one or more workplace COVID-19 safety coordinators to implement and monitor the COVID-19 plan developed under this rule. The COVID-19 safety coordinator(s) must be knowledgeable in infection control principles and practices as they apply to the workplace and employee job operations. The identity of the safety coordinator(s) must be documented in any written COVID-19 plan. The safety coordinator(s) must have the authority to ensure compliance with all aspects of the COVID-19 plan.

(4) Assessment

(a) The employer must conduct a workplace-specific hazard assessment to identify potential workplace hazards related to COVID-19.

(b) In order for an employer to be exempt from providing controls in a well-defined area under paragraph .01(4) of Rule 0800-01-12 based on employees' fully vaccinated status, the COVID-19 plan must include policies and procedures to determine employees' vaccination status. Employers may adopt mitigation measures that differ from the requirements of rules 0800-01-12-.06, 0800-01-12-.08, and 0800-01-12-.09 for fully vaccinated employees based on the results of the employer's workplace specific hazard assessment.

(5) The employer must seek the input and involvement of non-managerial employees and their representatives, if any, in the hazard assessment and the development and implementation of the COVID-19 plan.

(6) The employer must monitor each workplace to ensure the ongoing effectiveness of the COVID-19 plan and update it as needed.

(7) The COVID-19 plan must address the hazards identified by the assessment required by paragraph (4) of this rule, and include policies and procedures to:

(a) Minimize the risk of transmission of COVID-19 for each employee, as required by rules 0800-01-12-.04 through .14;

Note to paragraph (7)(a): Although the employer's COVID-19 plan must account for the potential COVID-19 exposures to each employee, the plan can do so generally and need not address each employee individually.

(b) Effectively communicate and coordinate with other employers:

1. When employees of different employers share the same physical location, each employer must effectively communicate its COVID-19 plan to all other employers, coordinate to ensure that each of its employees is protected as required by this rule, and adjust its COVID-19 plan to address any particular COVID-19 hazards presented by the other employees. This requirement does not apply to delivery people, messengers, and other employees who only enter a workplace briefly to drop off or pick up items.

2. An employer with one or more employees working in a physical location controlled by another employer must notify the controlling employer when those employees are exposed to conditions at that location that do not meet the requirements of this rule; and

(c) 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 TN-OSH Act (e.g., homeowners, sole proprietors). This must include procedures for employee withdrawal from that location if those protections are inadequate.

Note to rule 0800-01-12-.03: The employer may include other policies, procedures, or information necessary to comply with any applicable federal, state, or local public health laws, standards, and guidelines in their COVID–19 plan.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.04 Patient Screening and Management.

- (1) In settings where direct patient care is provided, the employer must:
  - (a) Limit and monitor points of entry to the setting. This provision does not apply where emergency responders or other licensed healthcare providers enter a non-healthcare setting to provide healthcare services.
  - (b) Screen and triage all clients, patients, residents, delivery people and other visitors, and other non-employees entering the setting.
  - (c) Implement other applicable patient management strategies in accordance with CDC's "COVID–19 Infection Prevention and Control Recommendations" (incorporated by reference, Rule 0800-01-12-.21).

Note to Rule 0800-01-12-.04: The employer is encouraged to use telehealth services where available and appropriate in order to limit the number of people entering the workplace.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.05 Standard and Transmission-Based Precautions.

Employers must develop and implement policies and procedures to adhere to Standard and Transmission-Based Precautions in accordance with CDC's "Guidelines for Isolation Precautions" (incorporated by reference, Rule 0800-01-12-.21).

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.06 Personal Protective Equipment (PPE).

- (1) Facemasks.
  - (a) Employers must provide, and ensure that employees wear, facemasks that meet the definition in Rule 0800-01-12-.02; and
  - (b) The employer must ensure a facemask is worn by each employee over the nose and mouth when indoors and when occupying a vehicle with other people for work purposes. The employer must provide a sufficient number of facemasks to each employee to comply with this paragraph and must ensure that each employee changes them at least once per day, whenever they are soiled or damaged, and more frequently as necessary (e.g., patient care reasons).
- (2) The following are exceptions to the requirements for facemasks in paragraph (1)(b) of this rule:
  - (a) When an employee is alone in a room.
  - (b) While an employee is eating and drinking at the workplace, provided each employee is at least 6 feet away from any other person, or separated from other people by a physical barrier.
  - (c) When employees are wearing respiratory protection in accordance with 29 CFR 1910.134 or rule 0800-01-12-.06.

- (d) When it is important to see a person's mouth (e.g., communicating with an individual who is deaf or hard of hearing) and the conditions do not permit a facemask that is constructed of clear plastic (or includes a clear plastic window). In such situations, the employer must ensure that each employee wears an alternative to protect the employee, such as a face shield, if the conditions permit it.
- (e) When employees cannot wear facemasks due to a medical necessity, medical condition, or disability as defined in the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), or due to a religious belief. Exceptions must be provided for a narrow subset of persons with a disability who cannot wear a facemask or cannot safely wear a facemask, because of the disability, as defined in the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), including a person who cannot independently remove the facemask. The remaining portion of the subset who cannot wear a facemask may be exempted on a case-by-case basis as required by the Americans with Disabilities Act and other applicable laws. In all such situations, the employer must ensure that any such employee wears a face shield for the protection of the employee, if their condition or disability permits it. Accommodations may also need to be made for religious beliefs consistent with Title VII of the Civil Rights Act.
- (f) When the employer can demonstrate that the use of a facemask presents a hazard to an employee of serious injury or death (e.g., arc flash, heat stress, interfering with the safe operation of equipment). In such situations, the employer must ensure that each employee wears an alternative to protect the employee, such as a face shield, if the conditions permit it. Any employee not wearing a facemask must remain at least 6 feet away from all other people unless the employer can demonstrate it is not feasible. The employee must resume wearing a facemask when not engaged in the activity where the facemask presents a hazard.

Note to paragraph (2)(f): With respect to paragraphs (2)(d) through (f). of this rule, the employer may determine that the use of face shields, without facemasks, in certain settings is not appropriate due to other infection control concerns.

- (3) Where a face shield is required to comply with this rule or is otherwise required by the employer, the employer must ensure that face shields are cleaned at least daily and are not damaged. When an employee provides a face shield that meets the definition in rule 0800-01-12-.02, the employer may allow the employee to use it and is not required to reimburse the employee for that face shield.
- (4) Respirators and other PPE for exposure to people with suspected or confirmed COVID-19. When employees have exposure to a person with suspected or confirmed COVID-19, the employer must provide:
  - (a) A respirator to each employee and ensure that it is provided and used in accordance with 29 CFR 1910.134 and
  - (b) Gloves, an isolation gown or protective clothing, and eye protection to each employee and ensure that the PPE is used in accordance with subpart I of 29 CFR 1910.

Note to paragraph (4): When there is a limited supply of filtering facepiece respirators, employers may follow the CDC's "Strategies for Optimizing the Supply of N95 Respirators" (available at: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html>). Where possible, employers are encouraged to select elastomeric respirators or PAPRs instead of filtering facepiece respirators to prevent shortages and supply chain disruption.

- (5) Respirators and other PPE during aerosol-generating procedures. For aerosol-generating procedures performed on a person with suspected or confirmed COVID-19, the employer must provide:
  - (a) A respirator to each employee and ensure that it is provided and used in accordance with 29 CFR 1910.134; and



- (b) Gloves, an isolation gown or protective clothing, and eye protection to each employee and ensure that the PPE is used in accordance with subpart I of 29 CFR 1910.

Note 1 to paragraph (5): For aerosol generating procedures on a person suspected or confirmed with COVID-19, employers are encouraged to select elastomeric respirators or PAPRs instead of filtering facepiece respirators.

Note 2 to paragraph (5): Additional requirements specific to aerosol-generating procedures on people with suspected or confirmed COVID-19 are contained in rule 0800-01-12-.07.

- (6) Use of respirators when not required.
  - (a) The employer may provide a respirator to the employee instead of a facemask as required by paragraph (1) of this rule. In such circumstances, the employer must comply with rule 0800-01-12-.20.
  - (b) Where the employer provides the employee with a facemask as required by paragraph (1)(a) of this rule, the employer must permit the employee to wear their own respirator instead of a facemask. In such circumstances, the employer must also comply with rule 0800-01-12-.20.
- (7) Respirators and other PPE based on Standard and Transmission-Based Precautions. The employer must provide protective clothing and equipment (e.g., respirators, gloves, gowns, goggles, face shields) to each employee in accordance with Standard and Transmission-Based Precautions in healthcare settings in accordance with CDC's "Guidelines for Isolation Precautions" (incorporated by reference, rule 0800-01-12-.21) and ensure that the protective clothing and equipment is used in accordance with subpart I of 29 CFR 1910.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.07 Aerosol-generating procedures on a person with suspected or confirmed COVID-19.

- (1) When an aerosol-generating procedure is performed on a person with suspected or confirmed COVID-19:
  - (a) The employer must limit the number of employees present during the procedure to only those essential for patient care and procedure support.
  - (b) The employer must ensure that the procedure is performed in an existing AIIR, if available.
  - (c) After the procedure is completed, the employer must clean and disinfect the surfaces and equipment in the room or area where the procedure was performed.

Note to rule 0800-01-12-.07: Respirators and other PPE requirements during aerosol generating procedures are contained in rule 0800-01-12-.06(5).

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.08 Physical Distancing

- (1) The employer must ensure that each employee is separated from all other people by at least 6 feet when indoors unless the employer can demonstrate that such physical distancing is not feasible for a specific activity (e.g., hands-on medical care). This provision does not apply to momentary exposure while people are in movement (e.g., passing in hallways or aisles).
- (2) When the employer establishes it is not feasible for an employee to maintain a distance of at least 6 feet from all other people, the employer must ensure that the employee is as far apart from all other people as feasible.

Note to rule 0800-01-12-.08: Physical distancing can include methods such as: Telehealth; telework or other remote work arrangements; reducing the number of people, including non-employees, in an area at one time; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures to allow greater distance between employees.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.09 Physical Barriers.

- (1) At each fixed work location outside of direct patient care areas (e.g., entryway/lobby, check in desks, triage, hospital pharmacy windows, bill payment) where each employee is not separated from all other people by at least 6 feet of distance, the employer must install cleanable or disposable solid barriers, except where the employer can demonstrate it is not feasible. The barrier must be sized (e.g., height and width) and located to block face-to-face pathways between individuals based on where each person would normally stand or sit. The barrier may have a pass-through space at the bottom for objects and merchandise.

Note to rule 0800-01-12-.09: Physical barriers are not required in direct patient care areas or resident rooms. Physical barriers are also not required for employees who are fully vaccinated.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.10 Cleaning and Disinfection.

- (1) In patient care areas, resident rooms, and for medical devices and equipment, the employer must follow standard practices for cleaning and disinfection of surfaces and equipment in accordance with CDC's "COVID-19 Infection Prevention and Control Recommendations" and CDC's "Guidelines for Environmental Infection Control," pp. 86-103, 147-149 (both incorporated by reference, rule 0800-01-12-.21).
- (2) In all other areas, the employer must:
  - (a) Clean high-touch surfaces and equipment at least once a day, following manufacturers' instructions for application of cleaners; and
  - (b) 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, rule 0800-01-12-.21), any areas, materials, and equipment under the employer's control that have likely been contaminated by the person who is COVID-19 positive (e.g., rooms they occupied, items they touched).
- (3) The employer must provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible hand washing facilities.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.11 Ventilation.

- (1) Employers who own or control buildings or structures with an existing heating, ventilation, and air conditioning (HVAC) system(s) must ensure that:
  - (a) The HVAC system(s) is used in accordance with the HVAC manufacturer's instructions and the design specifications of the HVAC system(s);
  - (b) The amount of outside air circulated through its HVAC system(s) and the number of air changes per hour are maximized to the extent appropriate;
  - (c) All air filters are rated Minimum Efficiency Reporting Value (MERV) 13 or higher, if compatible with the HVAC system(s). If MERV-13 or higher filters are not compatible

with the HVAC system(s), employers must use filters with the highest compatible filtering efficiency for the HVAC system(s);

- (d) All air filters are maintained and replaced as necessary to ensure the proper function and performance of the HVAC system(s); and
  - (e) All intake ports that provide outside air to the HVAC system(s) are cleaned, maintained, and cleared of any debris that may affect the function and performance of the HVAC system(s).
- (2) Where the employer has an existing AIIR, the employer must maintain and operate it in accordance with its design and construction criteria.

Note 1 to rule 0800-01-12-.11: This rule does not require installation of new HVAC systems or AIIRs to replace or augment functioning systems.

Note 2 to rule 0800-01-12-.11: In addition to the requirements for existing HVAC systems and AIIRs, all employers should also consider other measures to improve ventilation in accordance with "CDC's Ventilation Guidance," (available at [www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html](http://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html)) (e.g., opening windows and doors). This could include maximizing ventilation in buildings without HVAC systems or in vehicles.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.12 Health Screening and Medical Management.

- (1) Screening.
  - (a) The employer must screen each employee before each workday and each shift. Screening may be conducted by asking employees to self-monitor before reporting to work or may be conducted in-person by the employer.
  - (b) If a COVID-19 test is required by the employer for screening purposes, the employer must provide the test to each employee at no cost to the employee.
- (2) Employee notification to employer of COVID-19 illness or symptoms. The employer must require each employee to promptly notify the employer when the employee:
  - (a) Is COVID-19 positive (i.e., confirmed positive test for, or has been diagnosed by a licensed healthcare provider with, COVID-19); or
  - (b) Has been told by a licensed healthcare provider that they are suspected to have COVID-19; or
  - (c) Is experiencing recent loss of taste and/or smell with no other explanation; or
  - (d) Is experiencing both fever ( $\geq 100.4$  °F) and new unexplained cough associated with shortness of breath.
- (3) Employer notification to employees of COVID-19 exposure in the workplace.
  - (a) Except as provided for in paragraph (3)(c) of this rule, when the employer is notified that a person who has been in the workplace(s) (including employees, clients, patients, residents, vendors, contractors, customers, delivery people and other visitors, or other non-employees) is COVID-19 positive, the employer must, within 24 hours:
    - 1. Notify each employee who was not wearing a respirator and any other required PPE and has been in close contact with that person in the workplace. The notification must state the fact that the employee was in close contact with someone with COVID-19 along with the date(s) that contact occurred.

2. Notify all other close contact employees who were not wearing a respirator and any other required PPE and worked in a well-defined portion of a workplace (e.g., a particular floor) in which that person was present during the potential transmission period. The potential transmission period runs from 2 days before the person felt sick (or, for asymptomatic people, 2 days prior to test specimen collection) until the time the person is isolated. The notification must specify the date(s) the person with COVID-19 was in the workplace during the potential transmission period.
  3. Notify other employers whose employees were not wearing respirators and any other required PPE and have been in close contact with that person during the potential transmission period. The potential transmission period runs from 2 days before the person felt sick (or, for asymptomatic people, 2 days prior to test specimen collection) until the time the person is isolated. The notification must specify the date(s) the person with COVID-19 was in the workplace during the potential transmission period and the location(s) where the person with COVID-19 was in the workplace.
- (b) The notifications required by paragraph (3)(a) of this rule must not include any employee's name, contact information (e.g., phone number, email address), or occupation.
- (c) The notification provisions are not triggered by the presence of a patient with confirmed COVID-19 in a workplace where services are normally provided to suspected or confirmed COVID-19 patients (e.g., emergency rooms, urgent care facilities, COVID-19 testing sites, COVID-19 wards in hospitals).
- (4) Medical removal from the workplace.
- (a) If the employer knows an employee meets the criteria listed in paragraph (2)(a) of this rule, then the employer must immediately remove that employee and keep the employee removed until they meet the return to work criteria in paragraph (6) of this rule.
- (b) If the employer knows an employee meets the criteria listed in paragraphs (2)(b) through (2)(d) of this rule, then the employer must immediately remove that employee and either:
1. Keep the employee removed until they meet the return to work criteria in paragraph (6) of this rule; or
  2. Keep the employee removed and provide a COVID-19 polymerase chain reaction (PCR) test at no cost to the employee.
    - (i) If the test results are negative, the employee may return to work immediately.
    - (ii) If the test results are positive, the employer must comply with paragraph (4)(a) of this rule.
    - (iii) If the employee refuses to take the test, the employer must continue to keep the employee removed from the workplace consistent with paragraph (4)(b)1. of this rule, but the employer is not obligated to provide medical removal protection benefits in accordance with paragraph (5)(c) of this rule. Absent undue hardship, employers must make reasonable accommodations for employees who cannot take the test for religious or disability-related medical reasons.

Note to paragraph (4)(b): This partial symptom list in paragraphs (2)(c) and (2)(d) of this rule informs the employer of the minimum requirements for compliance. The full list of COVID-19 symptoms provided by CDC includes additional symptoms not listed in paragraphs (2)(c) through

(2)(d) of this rule. Employers may choose to remove or test employees with additional symptoms from the CDC list, or refer the employees to a healthcare provider.

- (c) If the employer is required to notify the employee of close contact in the workplace to a person who is COVID–19 positive in accordance with paragraph (3)(a)1. of this rule, then the employer must immediately remove that employee and either:
    - 1. Keep the employee removed for 14 days; or
    - 2. Keep the employee removed and provide a COVID–19 test at least five days after the exposure at no cost to the employee.
      - (i) If the test results are negative, the employee may return to work after seven days following exposure.
      - (ii) If the test results are positive, the employer must comply with paragraph (4)(a) of this rule.
      - (iii) If the employee refuses to take the test, the employer must continue to keep the employee removed from the workplace consistent with paragraph (4)(c)1 of this rule, but the employer is not obligated to provide medical removal protection benefits in accordance with paragraph (5)(c) of this rule. Absent undue hardship, employers must make reasonable accommodations for employees who cannot take the test for religious or disability-related medical reasons, consistent with applicable nondiscrimination laws.
  - (d) Employers are not required to remove any employee who would otherwise be required to be removed under paragraph (4)(c) of this rule if the employee does not experience the symptoms in paragraph (2)(c) or (d) of this rule and has:
    - 1. Been fully vaccinated against COVID–19 (i.e., 2 weeks or more following the final dose); or
    - 2. Had COVID–19 and recovered within the past 3 months.
  - (e) Any time an employee is required to be removed from the workplace for any reason under paragraph (4) of this rule, the employer may require the employee to work remotely or in isolation if suitable work is available.
- (5) Medical removal protection benefits.
- (a) Employers with 10 or fewer employees on the effective date of this rule are not required to comply with paragraphs (5)(c) through (d) of this rule.
  - (b) When an employer allows an employee to work remotely or in isolation in accordance with paragraph (4)(e) of this rule, the employer must continue to pay the employee the same regular pay and benefits the employee would have received had the employee not been absent from work, until the employee meets the return to work criteria specified in paragraph (4) or (6) of this rule.
  - (c) When an employer removes an employee in accordance with paragraph (4) of this rule:
    - 1. The employer must continue to provide the benefits to which the employee is normally entitled and must also pay the employee the same regular pay the employee would have received had the employee not been absent from work, up to \$1,400 per week, until the employee meets the return to work criteria specified in paragraph (4) or (6) of this rule.

2. For employers with fewer than 500 employees, the employer must pay the employee up to the \$1,400 per week cap but, beginning in the third week of an employee's removal, the amount is reduced to only two-thirds of the same regular pay the employee would have received had the employee not been absent from work, up to \$200 per day (\$1,000 per week in most cases).
- (d) The employer's payment obligation under paragraph (5)(c) of this rule is reduced by the amount of compensation that the employee receives from any other source, such as a publicly or employer-funded compensation program (e.g., paid sick leave, administrative leave), for earnings lost during the period of removal or any additional source of income the employee receives that is made possible by virtue of the employee's removal.
- (e) Whenever an employee returns to the workplace after a COVID-19-related workplace removal, that employee must not suffer any adverse action as a result of that removal from the workplace and must maintain all employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed.
- (6) Return to work. The employer must make decisions regarding an employee's return to work after a COVID-19-related workplace removal in accordance with guidance from a licensed healthcare provider or CDC's "Isolation Guidance" (incorporated by reference, rule 0800-01-12-.21); and CDC's "Return to Work Healthcare Guidance" (incorporated by reference, rule 0800-01-12-.21).

Note to paragraph 0800-01-12-.12: OSHA recognizes that CDC's "Strategies to Mitigate Healthcare Personnel Staffing Shortages" (available at [www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html](http://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html)) allows elimination of quarantine for certain healthcare workers, but only as a last resort, if the workers' absence would mean there are no longer enough staff to provide safe patient care, specific other amelioration strategies have already been tried, patients have been notified, and workers are utilizing additional PPE at all times.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.13 Vaccination.

The employer must support COVID-19 vaccination for each employee by providing reasonable time and paid leave (e.g., paid sick leave, administrative leave) to each employee for vaccination and any side effects experienced following vaccination.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.14 Training.

- (1) The employer must ensure that each employee receives training, in a language and at a literacy level the employee understands, so that the employee comprehends at least the following:
  - (a) COVID-19, including how the disease is transmitted (including pre-symptomatic and asymptomatic transmission), the importance of hand hygiene to reduce the risk of spreading COVID-19 infections, ways to reduce the risk of spreading COVID-19 through the proper covering of the nose and mouth, the signs and symptoms of the disease, risk factors for severe illness, and when to seek medical attention;
  - (b) Employer-specific policies and procedures on patient screening and management;
  - (c) Tasks and situations in the workplace that could result in COVID-19 infection;
  - (d) Workplace-specific policies and procedures to prevent the spread of COVID-19 that are applicable to the employee's duties (e.g., policies on Standard and Transmission-Based Precautions, physical distancing, physical barriers, ventilation, aerosol generating procedures);
  - (e) Employer-specific multi-employer workplace agreements related to infection control policies and procedures, the use of common areas, and the use of shared equipment that affect employees at the workplace;

- (f) Employer-specific policies and procedures for PPE worn to comply with this rule, including:
  - 1. When PPE is required for protection against COVID-19;
  - 2. Limitations of PPE for protection against COVID-19;
  - 3. How to properly put on, wear, and take off PPE;
  - 4. How to properly care for, store, clean, maintain, and dispose of PPE; and
  - 5. Any modifications to donning, doffing, cleaning, storage, maintenance, and disposal procedures needed to address COVID-19 when PPE is worn to address workplace hazards other than COVID-19;
- (g) Workplace-specific policies and procedures for cleaning and disinfection;
- (h) Employer-specific policies and procedures on health screening and medical management;
- (i) Available sick leave policies, any COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, and other supportive policies and practices (e.g., telework, flexible hours);
- (j) The identity of the safety coordinator(s) specified in the COVID-19 plan;
- (k) The requirements of this rule; and
- (l) How the employee can obtain copies of this rule and any employer specific policies and procedures developed under this rule, including the employer's written COVID-19 plan, if required.

Note to paragraph (1): Employers may rely on training completed prior to the effective date of this rule to the extent that it meets the relevant training requirements of this paragraph.

- (2) The employer must ensure that each employee receives additional training whenever:
  - (a) Changes occur that affect the employee's risk of contracting COVID-19 at work (e.g., new job tasks);
  - (b) Policies or procedures are changed; or
  - (c) There is an indication that the employee has not retained the necessary understanding or skill.
- (3) The employer must ensure that the training is overseen or conducted by a person knowledgeable in the covered subject matter as it relates to the employee's job duties.
- (4) The employer must ensure that the training provides an opportunity for interactive questions and answers with a person knowledgeable in the covered subject matter as it relates to the employee's job duties.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.15 Anti-Retaliation.

- (1) The employer must inform each employee that:
  - (a) Employees have a right to the protections required by this rule; and

- (b) Employers are prohibited from discharging or in any manner discriminating against any employee for exercising their right to the protections required by this rule, or for engaging in actions that are required by this rule.
- (2) The employer must not discharge or in any manner discriminate against any employee for exercising their right to the protections required by this rule, or for engaging in actions that are required by this chapter.

Note to rule 0800-01-12-.15: In addition, T.C.A. § 50-3-409(a) of the TN-OSH Act also prohibits the employer from discriminating against an employee for exercising rights under, or as a result of actions that are required by, this rule or that statute. That provision of the Act also protects the employee who files a safety and health complaint, or otherwise exercises any rights afforded by the TN-OSH Act.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.16 Requirements Implemented at no Cost to Employees.

The implementation of all requirements of this chapter, with the exception of any employee self-monitoring conducted under rule 0800-01-12-.12(1)(a), must be at no cost to employees.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.17 Recordkeeping.

- (1) Small employer exclusion. Employers with 10 or fewer employees on the effective date of this rule are not required to comply with paragraph (2) or (3) of this rule.
- (2) Required records. Employers with more than 10 employees on the effective date of this rule must:
  - (a) Retain all versions of the COVID-19 plan implemented to comply with this chapter while this chapter remains in effect.
  - (b) Establish and maintain a COVID-19 log to record each instance identified by the employer in which an employee is COVID-19 positive, regardless of whether the instance is connected to exposure to COVID-19 at work.
    - 1. The COVID-19 log must contain, for each instance, the employee's name, one form of contact information, occupation, location where the employee worked, the date of the employee's last day at the workplace, the date of the positive test for, or diagnosis of, COVID-19, and the date the employee first had one or more COVID-19 symptoms, if any were experienced.
    - 2. The information in the COVID-19 log must be recorded within 24 hours of the employer learning that the employee is COVID-19 positive and must be maintained as though it is a confidential medical record and must not be disclosed except as required by this ETR or other federal law.
    - 3. The COVID-19 log must be maintained and preserved while this rule remains in effect.

Note to paragraph (2)(b): The COVID-19 log is intended to assist employers with tracking and evaluating instances of employees who are COVID-19 positive without regard to whether those employees were infected at work. The tracking will help evaluate potential workplace exposure to other employees.

- (3) Availability of records. By the end of the next business day after a request, the employer must provide, for examination and copying:
  - (a) All versions of the written COVID-19 plan to all of the following: Any employees, their personal representatives, and their authorized representatives.



- (b) The individual COVID–19 log entry for a particular employee to that employee and to anyone having written authorized consent of that employee.
- (c) A version of the COVID–19 log that removes the names of employees, contact information, and occupation, and only includes, for each employee in the COVID–19 log, the location where the employee worked, the last day that the employee was at the workplace before removal, the date of that employee's positive test for, or diagnosis of, COVID–19, and the date the employee first had one or more COVID–19 symptoms, if any were experienced, to all of the following: Any employees, their personal representatives, and their authorized representatives.
- (d) All records required to be maintained by this rule to the Assistant Commissioner.

Note to rule 0800-01-12-.17: Employers must continue to record all work-related confirmed cases of COVID–19 on their OSHA Forms 300, 300A, and 301, or the equivalent forms, if required to do so under 0800-01-03.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.18 Reporting COVID–19 Fatalities and Hospitalizations to Tennessee OSHA.

- (1) The employer must report to TN-OSHA:
  - (a) Each work-related COVID–19 fatality within 8 hours of the employer learning about the fatality.
  - (b) Each work-related COVID–19 inpatient hospitalization within 24 hours of the employer learning about the inpatient hospitalization.
- (2) When reporting COVID–19 fatalities and in-patient hospitalizations to TN-OSHA in accordance with paragraph (1) of this rule, the employer must follow the requirements in rule 0800-01-03-.05, except for rules 0800-01-03-.05(1)(a)1 and (1)(a)2 and (1)(b)(6).

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.19 Dates.

- (1) Effective date. This chapter is effective as of August 23, 2021.
- (2) Compliance dates.
  - (a) Employers must comply with all requirements of this rule, except for requirements in rules 0800-01-12-.09, 0800-01-12-.11, and 0800-01-12-.14 of this rule chapter number by September 7, 2021.
  - (b) Employers must comply with the requirements of this rule in 0800-01-12-.09, 0800-01-12-.11, and 0800-01-12-.14 of this rule chapter number by September 22, 2021.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.20 Mini Respiratory Protection Program.

- (1) Scope and application. This rule applies only to respirator use in accordance with rule 0800-01-12-.06(6)
- (2) Definitions. The following definitions apply to this rule:
  - (a) "COVID–19 (Coronavirus Disease 2019)" means the respiratory disease caused by SARS–CoV–2 (severe acute respiratory syndrome coronavirus 2). For clarity and ease of reference, this rule refers to "COVID–19" when describing exposures or potential exposures to SARS–CoV–2.

- (b) "Elastomeric respirator" means a tightfitting respirator with a facepiece that is made of synthetic or rubber material that permits it to be disinfected, cleaned, and reused according to manufacturer's instructions. It is equipped with a replaceable cartridge(s), canister(s), or filter(s).
  - (c) "Filtering facepiece respirator" means a negative-pressure particulate respirator with a non-replaceable filter as an integral part of the facepiece or with the entire facepiece composed of the nonreplaceable filtering medium.
  - (d) "Hand hygiene" means the cleaning and/or disinfecting of one's hands by using standard handwashing methods with soap and running water or an alcohol-based hand rub that is at least 60% alcohol.
  - (e) Respirator means a type of personal protective equipment (PPE) that is certified by the National Institute for Occupational Safety and Health (NIOSH) under 42 CFR part 84 or is authorized under an Emergency Use Authorization (EUA) by the US Food and Drug Administration. Respirators protect against airborne hazards by removing specific air contaminants from the ambient (surrounding) air or by supplying breathable air from a safe source. Common types of respirators include filtering facepiece respirators, elastomeric respirators, and PAPRs. Face coverings, facemasks, and face shields are not respirators.
  - (f) "Powered air-purifying respirator (PAPR)" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.
  - (g) "Tight-fitting respirator" means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator (e.g., filtering facepiece).
  - (h) "User seal check" means an action conducted by the respirator user to determine if the respirator is properly seated to the face.
- (3) Respirators provided by employees. Where employees provide and use their own respirators, the employer must provide each employee with the following notice:
- (a) Respirators can be an effective method of protection against COVID-19 hazards when properly selected and worn. Respirator use is encouraged to provide an additional level of comfort and protection for workers even in circumstances that do not require a respirator to be used. However, if a respirator is used improperly or not kept clean, the respirator itself can become a hazard to the worker. If your employer allows you to provide and use your own respirator, you need to take certain precautions to be sure that the respirator itself does not present a hazard. You should do the following:
    1. Read and follow all instructions provided by the manufacturer on use, maintenance, cleaning and care, and warnings regarding the respirator's limitations.
    2. Keep track of your respirator so that you do not mistakenly use someone else's respirator.
    3. Do not wear your respirator where other workplace hazards (e.g., chemical exposures) require use of a respirator. In such cases, your employer must provide you with a respirator that is used in accordance with OSHA's respiratory protection standard (29 CFR 1910.134). For more information about using a respirator, see OSHA's respiratory protection safety and health topics page (<https://www.osha.gov/respiratory-protection>).
- (4) Respirators provided by employers. Where employers provide respirators to their employees, the employer must comply with the following requirements:

- (a) **Training.** The employer must ensure that each employee wearing a respirator receives training prior to first use and if they change the type of respirator, in a language and at a literacy level the employee understands, and comprehends at least the following:
1. How to inspect, put on and remove, and use a respirator;
  2. The limitations and capabilities of the respirator, particularly when the respirator has not been fit tested;
  3. Procedures and schedules for storing, maintaining, and inspecting respirators;
  4. How to perform a user seal check as described in paragraph (4)(b) of this rule; and
  5. 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.
- (b) **User seal check.** The employer must ensure that each employee who uses a tight-fitting respirator performs a user seal check to ensure that the respirator is properly seated to the face each time the respirator is put on. Acceptable methods of user seal checks include:
1. **Positive pressure user seal check (i.e., blow air out).** Once you have conducted proper hand hygiene and properly donned the respirator, place your hands over the facepiece, covering as much surface area as possible. Exhale gently into the facepiece. The face fit is considered satisfactory if a slight positive pressure is being built up inside the facepiece without any evidence of outward leakage of air at the seal. Examples of evidence that it is leaking could be the feeling of air movement on your face along the seal of the facepiece, fogging of your glasses, or a lack of pressure being built up inside the facepiece. If the particulate respirator has an exhalation valve, then performing a positive pressure check may not be possible unless the user can cover the exhalation valve. In such cases, a negative pressure check must be performed.
  2. **Negative pressure user seal check (i.e., suck air in).** Once you have conducted proper hand hygiene and properly donned the respirator, cover the filter surface with your hands as much as possible and then inhale. The facepiece should collapse on your face and you should not feel air passing between your face and the facepiece.
  3. The employer must ensure that each employee corrects any problems discovered during the user seal check. In the case of either type of user seal check (positive or negative), if air leaks around the nose, use both hands to readjust how the respirator sits on your face or adjust the nosepiece, if applicable. Readjust the straps along the sides of your head until a proper seal is achieved.

Note to paragraph (4)(b): When employees are required to wear a respirator and a problem with the seal check arises due to interference with the seal by an employee's facial hair, employers may provide a different type of respirator to accommodate employees who cannot trim or cut facial hair due to religious belief.

- (c) **Reuse of respirators.** The employer must ensure that a filtering facepiece respirator used by a particular employee is only reused by that employee, and only when:
1. The respirator is not visibly soiled or damaged;
  2. The respirator has been stored in a breathable storage container (e.g., paper bag) for at least five calendar days between use and has been kept away from water or moisture;

3. The employee does a visual check in adequate lighting for damage to the respirator's fabric or seal;
4. The employee successfully completes a user seal check as described in paragraph (4)(b) of this rule;
5. The employee uses proper hand hygiene before putting the respirator on and conducting the user seal check; and
6. The respirator has not been worn more than five days total.

Note to paragraph (4)(c)1: The reuse of single-use respirators (e.g., filtering facepiece respirators) is discouraged.

- (d) The employer must ensure that an elastomeric respirator or PAPR is only reused when:
  1. The respirator is not damaged;
  2. The respirator is cleaned and disinfected as often as necessary to be maintained in a sanitary condition in accordance with 29 CFR 1910.134, Appendix B–2; and
  3. A change schedule is implemented for cartridges, canisters, or filters.
- (e) Discontinuing use of respirators. Employers must require employees to discontinue use of a respirator when either the employee or a supervisor reports medical signs or symptoms (e.g., shortness of breath, coughing, wheezing, chest pain, any other symptoms related to lung problems, cardiovascular symptoms) that are related to ability to use a respirator. Any employee who previously had a medical evaluation and was determined to not be medically fit to wear a respirator must not be provided with a respirator under this standard unless they are re-evaluated and medically cleared to use a respirator.
- (f) Effective date. This rule is effective as of August 23, 2021.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

0800-01-12-.21 Incorporation by Reference.

- (1) The references listed below are incorporated by reference into this rule 0800-01-12. To enforce any edition other than that specified in this rule, TN-OSHA must amend this rule. All approved material is available for inspection at the central office of Tennessee OSHA, 220 French Landing Drive, Nashville, TN 37243; telephone: 615–741–2793.
- (2) The material is available from the sources listed in this rule as follows:
  - (a) The material listed in paragraphs (3) and (4) of this rule (CDC and EPA) is available at this permanent weblink hosted by federal OSHA: [www.osha.gov/coronavirus/ets/ibr](http://www.osha.gov/coronavirus/ets/ibr).
  - (b) The material listed in paragraph (5) of this rule (ISEA) is available from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4900; fax: 212–398–0023; website: <http://www.ansi.org>.
- (3) Centers for Disease Control and Prevention (CDC): 1600 Clifton Road, Atlanta, GA 30329; websites: <https://www.cdc.gov/>, <https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance.html>, and <https://www.cdc.gov/infectioncontrol/guidelines/>.
- (a) Cleaning and Disinfecting Guidance. COVID–19: Cleaning and Disinfecting Your Facility; Every Day and When Someone is Sick, updated April 5, 2021, IBR approved for rule 0800-01-12-.10.

- (b) COVID–19 Infection Prevention and Control Recommendations. COVID–19: Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID–19) Pandemic, updated February 23, 2021, IBR approved for rules 0800-01-12-.04 and .10.
  - (c) Guidelines for Isolation Precautions. 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, updated July 2019, IBR approved for rules 0800-01-12-.05 and .06.
  - (d) Guidelines for Environmental Infection Control. Guidelines for Environmental Infection Control in Health–Care Facilities, updated July 2019, IBR approved for rule 0800-01-12-.10.
  - (e) Isolation Guidance. COVID–19: Isolation If You Are Sick; Separate yourself from others if you have COVID–19, updated February 18, 2021, IBR approved for rule 0800-01-12-.12.
  - (f) Return to Work Healthcare Guidance. COVID–19: Return to Work Criteria for Healthcare Personnel with SARS–CoV–2 Infection (Interim Guidance), updated February 16, 2021, IBR approved for rule 0800-01-12-.12.
- (4) U.S. Environmental Protection Agency (EPA): 1200 Pennsylvania Avenue NW, Washington, DC 20460; website: <https://www.epa.gov/>.
- (a) List N. Pesticide Registration List N: Disinfectants for Coronavirus (COVID–19), updated April 9, 2021, IBR approved for rule 0800-01-12-.02.
- (5) International Safety Equipment Association (ISEA): 1901 North Moore Street, Suite 808, Arlington, VA 22209; website: [www.safetysafetyequipment.org](http://www.safetysafetyequipment.org)
- (a) ANSI/ISEA Z87.1–2010, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI-approved April 13, 2010, IBR approved for rule 0800-01-12-.02.
  - (b) ANSI/ISEA Z87.1–2015, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI-approved May 28, 2015, IBR approved for rule 0800-01-12-.02.
  - (c) ANSI/ISEA Z87.1–2020, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI-approved March 11, 2020, IBR approved for rule 0800-01-12-.02.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

#### 0800-01-12-.22 Severability.

Each section of rule 0800-01-12, and each provision within those sections, is separate and severable from the other sections and provisions. If any provision of this rule is held to be invalid or unenforceable on its face, or as applied to any person, entity, or circumstance, or is stayed or enjoined, that provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this rule and shall not affect the remainder of the rule.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 8-20-2021

Signature: [Signature]

Name of Officer: Jeff McCord

Title of Officer: Commissioner of Labor and Workforce Development

Agency/Board/Commission: Department of Labor and Workforce Development

Rule Chapter Number(s): 0800-01-12

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]  
Herbert H. Slater, III  
Attorney General and Reporter

8-23-2021  
Date

**Department of State Use Only**

Filed with the Department of State on: 8/24/2021

Effective for: 180 \*days

Effective through: 2/20/2022

\* Emergency rule(s) may be effective for up to 180 days from the date of filing.

RECEIVED

AUG 24 2021

Secretary of State  
Division of Publications

[Signature]  
Tre Hargett  
Secretary of State

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

This emergency rule does not have any projected impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0800-01-12, an emergency temporary rule for occupational exposure to COVID-19, is being proposed so that Tennessee OSHA may meet its obligation to maintain a program "at least as effective as" as Federal OSHA. On June 21, 2021 Federal OSHA published an emergency temporary standard on this subject. The rule proposed by Tennessee OSHA is similar in scope in that it is limited to work settings where employees provide healthcare services or healthcare support services.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee must adopt the federal standard, or promulgate its own rule relating to the same issue. The statutory authority for promulgation of the rules by the Commissioner of Labor and Workforce Development is T.C.A. § 50-3-201.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All persons subject to T.C.A. §§ 50-3-101 et seq. are directly affected by the rules in Chapter 0800-01-12, if the work settings are such that employees provide healthcare services or healthcare support services. This rule provides for the effective administration and enforcement of this occupational health standard required by the state plan. Employees and employers including governmental entities in the state must comply with the rules promulgated pursuant to federal and state law if their work falls within the scope of the rule. Local employers who will be affected by this rule have contacted TOSHA seeking information about how the rule will be enforced.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There have been no Attorney General opinions or judicial rulings relevant to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenditures resulting from promulgation of these emergency rules and amendments to the existing rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Larry Hunt, Assistant Administrator, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Larry Hunt, Assistant Administrator, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and



Tennessee Department of Labor and Workforce Development  
Division of Occupational Safety and Health  
220 French Landing Drive  
Nashville, TN 37243-1002  
(615) 741-7036  
email: [larry.hunt@tn.gov](mailto:larry.hunt@tn.gov)

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.