

NEWS BRIEF

Provided by: National Insurance Services

OSHA Warns Several States to Adopt a COVID-19 Health Care ETS

The Occupational Safety and Health Administration (OSHA) published the health care COVID-19 emergency temporary standard (ETS) in June 2021. Since then, three of the 21 states with their own state plans have not adopted the federal standard or developed their own equivalent. The three states are Arizona, South Carolina and Utah.

Under the OSH Act, state plans have to adopt standards that are at least as effective as the federal standard, if not stricter. OSHA recently sent out a [courtesy letter](#) to the three states to inform them that the decertification process is beginning. This process can be lengthy, but the next step is publishing a notice in the Federal Register to commence the comment period. This comment period will last 35 days. This article summarizes the courtesy letter's contents and explains the timeline of revocation for state plans.

Courtesy Letter Contents

The letter states that failure to adopt a COVID-19 health care ETS makes the state plan less effective than federal OSHA standards, violating Section 18(e) of the OSH Act. All three states have failed to adopt the COVID-19 health care ETS or one as effective within 30 of the ETS promulgation. In addition, there have not been any reasons provided for the failure to adopt the health care ETS standard or alternative.

By not adopting a COVID-19 health care ETS, the states are placing their health care employees at risk. The ETS provides protection against grave dangers from the hazards of workplace exposures to COVID-19.

Timeline of Revocation of Final Approval

Once OSHA publishes notice of intent to reconsider the states' approval of their ability to have their own state plans, the states have 10 days to publish reasonable notice of intent to reconsider within their own state. Once this is completed, a docket will be opened for public comment. This provides interested parties with an opportunity to submit a comment as to whether OSHA should finalize its proposed revocation.

OSHA will then review all the information and make its decision regarding the revocation of any of the states' approval to have their own state plans. If federal OSHA decides to revoke a state's approval for a state plan, federal OSHA standards and enforcement will be reinstated into the state.

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Source: OSHA