

## LABOR SERVICES DIVISION[875]

**DRAFT ONLY: Dates herein may not comply with Schedule for Rule Making.**

### Adopted and Filed Emergency

Rule making related to \_\_\_\_\_

The Labor Services Division hereby amends Chapter 10, "General Industry Safety And Health Rules," Iowa Administrative Code.

### Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 88.5.

### State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

### Purpose and Summary

The Iowa Labor Commissioner is required to adopt by reference changes to the U.S. Department of Labor's occupational safety and health standards. This rulemaking would adopt by reference federal OSHA's new emergency temporary standard (ETS) related to the COVID-19 pandemic. The ETS applies only to certain locations where health care services are provided and it is set to expire after 6 months.

### Reason for Adoption of Rule Making Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Commissioner finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by Administrative Rules Review Committee. At 29 CFR 1953.(5)(b)(1) a requirement is set forth for Iowa to adopt by reference the new ETS within 30 days of the federal adoption.

In compliance with Iowa Code section 17A.4(3)"a," the Administrative Rules Review Committee at its July 13, 2021, meeting reviewed the Commissioner's determination and this rule making and approved the emergency adoption.

### Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(c) the Commissioner also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 21, 2021, because Federal OSHA found that the ETS is necessary due to the grave danger posed by the COVID-19 virus. Iowa Code section 88.5(5) is closely aligned with the federal ETS law. The ETS is aimed at protecting workers facing the highest COVID-19 hazards -- those working in healthcare settings where suspected or confirmed COVID-19 patients are treated. .

### Adoption of Rule Making

This rule making was adopted by the Labor Commissioner on July 21, 2021.

### Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as ARC to allow for public comment.

#### Fiscal Impact

In the Federal register, the U.S. Department of Labor published a large amount of data as part of its economic analysis. The analysis concluded the ETS is economically feasible and the benefits far outweigh the costs. However, data specific to Iowa is not available.

#### Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

#### Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any.

#### Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### Effective Date

This rule making will become effective on July 21, 2021.

The following rule-making action is adopted:

The following rule-making action is proposed:

Amend rule **875—10.20(88)** by inserting the following at the end thereof:  
86 Fed. Reg. 32620 (June 21, 2021)

---

ROD ROBERTS  
LABOR COMMISSIONER

---

DATE