



HEALTHIER WORKPLACES | A HEALTHIER WORLD

February 25, 2022

Senator Rick Scott (Florida)
United States Senate

Senator Marco Rubio (Florida)
United States Senate

Senator John Barrasso (Wyoming)
United States Senate

Senator Dan Sullivan (Alaska)
United States Senate

Senator Joni Ernst (Iowa)
United States Senate

Senator Patty Murray
Chair, Committee on Health, Education,
Labor and Pensions
United States Senate

Senator John Kennedy (Louisiana)
United States Senate

Senator Rand Paul (Kentucky)
United States Senate

Senator Richard Burr
Ranking Member, Committee on Health,
Education, Labor and Pensions
United States Senate

AIHA Recommendations on S.3555 – OSHA ETS Clarification Act of 2022

Dear Chairwoman Murray, Ranking Member Burr, and Senators Scott, Barrasso, Earnst, Kennedy, Paul, Rubio, and Sullivan:

AIHA, the association for scientists and professionals committed to preserving and ensuring occupational and environmental health and safety (OEHS), commends the Senate for focusing on legislation to protect the health and safety of workers, businesses, and their communities. However, **as currently written, we must strongly encourage you to oppose further consideration of S. 3555, the OSHA ETS Clarification Act of 2022, as it would significantly limit the U.S. Occupational Safety and Health Administration's (OSHA) ability to issue emergency temporary standards (ETSs).**

While we understand the desire to clarify the sometimes ambiguous scope of OSHA regarding ETSs, placing further limits upon OSHA during the COVID-19 pandemic in this manner is problematic. As indicated in our recommendations on the Senate's Prepare for and Respond to Existing Viruses, Emerging New Threats, and Pandemics Act (PREVENT Pandemics Act),

“The distinct advantage of workplaces is that employers and workers, through safe work procedures, can help prevent and limit the spread of infectious diseases to workers, customers, patients, clients, and visitors... OSHA, which was established to provide uniform national standards for worker protection, can help prevent and limit the spread of infectious diseases”.¹

OSHA can help prevent and limit the spread of infectious diseases by issuing ETSs and proposing a national infectious disease standard. Instead of limiting OSHA’s powers to protect workers, we suggest that Congress should focus on strengthening the ability of Federal and State governments, employers, and businesses to prepare for, respond to, and recover from infectious diseases, such as COVID-19. Below is a summary of our current recommendations for how we believe Congress can improve our nation’s infectious disease preparedness, response, and recovery capabilities²:

1. Require OSHA to issue an infectious disease prevention standard within six months.
2. Ensure that all manner of biological agents in workplaces and communities are evaluated by employers using the services of qualified occupational health and safety professionals, including Certified Industrial Hygienists, Professional Engineers, and Board Certified Occupational Physicians as part of a total exposure approach.³
3. Clearly communicate that pandemic threats, such as the SARS-CoV-2, need to be evaluated and controlled using a source (infected people), pathway, and receptor (uninfected people) paradigm that allows the full measures of scientific know-how and technology to mitigate these threats.⁴
4. State that for future pandemics involving viral respiratory pathogens, it should be assumed that aerosol inhalation is an important and primary mode of person-to-person transmission and requires source, pathway, and receptor controls appropriate to that mode of transmission (e.g., dilution ventilation, local exhaust ventilation, and respirators).
5. Address the need for industry-specific environmental mitigation of pandemic threats. These have been characterized by OSHA and the National Institute for Occupational Safety and Health (NIOSH) and can be found in many recent AIHA publications. The

¹ <https://aiha-assets.sfo2.digitaloceanspaces.com/AIHA/resources/AIHA-Comments-PREVENT-Pandemics-Act-2022-Final-Approved.pdf>

² Ibid.

³ <https://www.aiha.org/get-involved/volunteer-groups/content-portfolio-advisory-group/total-exposure-health>

⁴ For additional information on this paradigm of infectious disease prevention, please see <https://www.cidrap.umn.edu/covid-19/preparedness-and-response/protecting-essential-workers>

revised (second edition) “The Role of the Industrial Hygienist in a Pandemic” has an appendix that addresses unique challenges in eight types of industries or settings.⁵

6. Emphasize the importance of “nonpharmaceutical intervention” in preventing and mitigating pandemics. These nonpharmaceutical interventions may include the sampling of pandemic sources through air, water, and other matrices, developing exposure and control banding,⁶ source, pathway, and receptor controls, communication and coordination in workplaces, and use of sensors.
7. A massive effort is needed now to research and study new workplace environmental approaches to preventing and mitigating pandemic and other biological agents in the workplace. NIOSH would appear to be the agency best set up to take on this responsibility while working with other government agencies and professional and worker organizations.
8. Legislation should be written to have a national standard and requirement to track cases by industry and occupation in surveillance systems. Many published reports and studies have downplayed the role of the workplace in the transmission of SARS-CoV-2. However, industry and occupation are critical to understanding the role of the workplace in the transmission of infectious diseases and developing appropriate infection prevention and control programs.
9. Industrial hygienists, experts in particle physics, and heating, ventilating, and air conditioning (HVAC) engineers should be included in the development of infectious disease preparedness and response programs. The Centers for Disease Control and Prevention and the other Federal agencies should include experts from these professions from inside and outside of government in developing infectious disease guidelines and standards.
10. Federal funding should be authorized to support State, local, and professional efforts to develop workplace hazard-assessment and control programs that include the recognition and identification of aerosol and other biological exposures. Funding should be focused on the sampling of pandemic sources through air, water, surfaces, and other matrices, development of exposure and control banding, source, pathway, and receptor controls, which may use air movement and air cleaning technologies, respirator design, training, and fit-testing for all essential industries that lack the necessary resources and expertise to establish effective respiratory-protection programs.

⁵ AIHA. “The Role of the Industrial Hygienist in a Pandemic 2nd Edition.” <https://aiha-assets.sfo2.digitaloceanspaces.com/AIHA/resources/Role-of-the-Industrial-Hygienist-in-a-Pandemic-2nd-edition.pdf>

⁶ <https://www.cdc.gov/niosh/topics/ctrlbanding/default.html>

11. Additional funding should be authorized for NIOSH and other Federal health agencies to address research gaps.⁷
12. Funding should be authorized to help States assist employers, unions, and building operators in conducting risk assessments, crafting and implementing written infection prevention and control programs, workplace training, and the development and implementation of personal protective equipment and respiratory protection programs, as well as improvements to building ventilation systems or use of portable air cleaners. Some of the hardest-hit industries typically have no industrial hygiene or HVAC expertise, such as nursing homes, long-term care, and correctional facilities.

Conclusion and next steps

AIHA thanks you for the opportunity to provide feedback on S.3555, the OSHA ETS Clarification Act of 2022. It is clear that we all wish to improve the health and safety of workplaces and our communities, and we look forward to working with you to develop legislation that effectively addresses their urgent needs. If you have any questions on these recommendations or other matters, please contact Mark Ames at mames@aiha.org or (703) 846-0730.

Sincerely,



Lawrence Sloan, MBA, FASAE, CAE
Chief Executive Officer

About AIHA

AIHA is the association for scientists and professionals committed to preserving and ensuring occupational and environmental health and safety in the workplace and community. Founded in 1939, we support our members with our expertise, networks, comprehensive education programs, and other products and services that help them maintain the highest professional and competency standards. More than half of AIHA's nearly 8,500 members are Certified Industrial Hygienists and many hold other professional designations. AIHA serves as a resource for those employed across the public and private sectors as well as to the communities in which they work. For more information, please visit www.aiha.org.

⁷ AIHA. "Joint Consensus Statement on Addressing the Aerosol Transmission of SARS CoV-2 and Recommendations for Preventing Occupational Exposures." <https://aiha-assets.sfo2.digitaloceanspaces.com/AIHA/resources/Fact-Sheets/Joint-Consensus-Statement-on-Addressing-the-Aerosol-Transmission-of-SARS-CoV-2-Fact-Sheet.pdf>