

Regulatory Compliance

U.S. Department of Labor Issues Emergency Temporary Standard to Protect Workers from Coronavirus

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WASHINGTON, DC – The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) today announced a new ***emergency temporary standard to protect more than 84 million workers from the spread of the coronavirus*** on the job. The nation’s unvaccinated workers face grave danger from workplace exposure to coronavirus, and immediate action is necessary to protect them.

Under this standard, covered employers must develop, implement and enforce a mandatory COVID-19 vaccination policy, unless they adopt a policy requiring employees to choose to either be vaccinated or undergo regular COVID-19 testing and wear a face covering at work.

Since 2020, the coronavirus has led to the deaths of 750,000 people in the U.S., and the infection of millions more, making it the deadliest pandemic in the nation’s history. Many of the people killed and infected by this virus were workers whose primary exposures occurred at their jobs. OSHA estimates that this rule will save thousands of lives and prevent more than 250,000 hospitalizations due to workplace exposure to COVID-19 over the course of the ETS.

“COVID-19 has had a devastating impact on workers, and we continue to see dangerous levels of cases,” said U.S. Labor Secretary Marty Walsh. “We must take action to implement this emergency temporary standard to contain the virus and protect people in the workplace against the grave danger of COVID-19. Many businesses understand the benefits of having their workers vaccinated against COVID-19, and we expect many will be pleased to see this OSHA rule go into effect.”

The emergency temporary standard covers employers with 100 or more employees – firm or company-wide – and provides options for compliance. The ETS also requires employers to provide paid time to workers to get vaccinated and to allow for paid leave to recover from any side effects.

The ETS also requires employers to do the following:

- Determine the vaccination status of each employee, obtain acceptable proof of vaccination status from vaccinated employees and maintain records and a roster of each employee’s vaccination status.
- Require employees to provide prompt notice when they test positive for COVID-19 or receive a COVID-19 diagnosis. Employers must then remove the employee from the workplace, regardless of vaccination status; employers must not allow them to return to work until they meet required criteria.
- Ensure each worker who is not fully vaccinated is tested for COVID-19 at least weekly (if the worker is in the workplace at least once a week) or within 7 days before returning to work (if the worker is away from the workplace for a week or longer).
- Ensure that, in most circumstances, each employee who has not been fully vaccinated wears a face covering when indoors or when occupying a vehicle with another person for work purposes.

The emergency temporary standard does not require employers to pay for testing. Employers may be required to pay for testing to comply with other laws, regulations, collective bargaining agreements, or other collectively negotiated agreements. Employers are also not required to pay for face coverings.

“While vaccination remains the most effective and efficient defense against COVID-19, this emergency temporary standard will protect all workers, including those who remain unvaccinated, by requiring regular testing and the use of face coverings by unvaccinated workers to prevent the spread of the virus,” said Deputy Assistant Secretary of Labor for Occupational Safety and Health Jim Frederick. “As part of OSHA’s mission to protect the safety and health of workers, this rule will provide a roadmap to help businesses keep their workers safe.”

OSHA is offering robust compliance assistance to help businesses implement the standard, including a *webinar*, *frequently asked questions* and other *compliance materials*.

The ETS will cover two-thirds of the nation’s private-sector workforce. In the 26 states and two territories with *OSHA State Plans*, the ETS will also cover public sector workers employed by state and local governments, including educators and school staff.

Leading companies, including major airlines, manufacturers and retailers, have taken similar actions in recent months – adopting vaccine requirements or regular testing as necessary measures to protect their workers and customers.

The ETS is effective immediately upon its publication in the Federal Register. Employers must comply with most requirements within 30 days of publication and with testing requirements within 60 days of publication.

The ETS also serves as a proposal for normal rulemaking for a final standard. OSHA is seeking comment on all aspects of this ETS and whether the agency should adopt it as a final standard.

OSHA will continue to monitor the status of COVID-19 infections and deaths, as the number of vaccinated people in workplaces and the general public increases and the pandemic evolves. OSHA will update the ETS should the agency find a grave danger no longer exists for the covered workforce (or some portion thereof), or new information indicates a change in measures is needed.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to help ensure these conditions for America’s workers by setting and enforcing standards, and providing training, education and assistance.

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