

Employers have a lot to do to comply with OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard, effective on November 5, 2021. The ETS includes two compliance dates, December 6, 2021, which includes most of the obligations mandated under the standard, and January 4, 2022, which primarily addresses testing. Our checklist, with linked regulatory sections and additional resources, will help employers meet their obligations under the ETS. We also recommend consulting OSHA's ETS [resource page](#), including its extensive [FAQs](#).

December 6, 2021 Deadlines^{1,2}, [29 CFR 1910.501\(m\)\(2\)\(i\)](#)

1. [Written Policy](#)

- Establish, implement, and enforce a written mandatory vaccination policy; or
- Establish, implement, and enforce a written policy allowing employees to choose to be fully vaccinated against or provide proof of regular testing for COVID-19.
- The requirements do not apply to employees who work from home, do not report to a worksite with other individuals, or work exclusively outdoors.

2. [Determination of Vaccination Status/Recordkeeping](#)³

- Employer must determine the vaccination status of each employee and whether the employee is fully vaccinated.
 - Employer must require each vaccinated employee to provide acceptable proof of vaccination status, including whether they are fully or partially vaccinated.
- The employer must maintain a roster of each employee's vaccination status.
- This information must be treated as confidential medical records.

3. [Paid Time/PTO Related to Vaccination and Recovery](#)

- Provide reasonable time for each vaccination shot (up to four hours paid working time, not paid leave)

- Provide reasonable time off for recovery. Must permit employees to use reasonable available paid sick leave reasonable (generally up to two days is reasonable).
- Not retroactive.

4. [Removal of COVID-positive Employees](#)

- Regardless of COVID-19 vaccination status or any COVID-19 testing the employer must:
 - Require each employee to promptly notify the employer when they receive a positive COVID-19 test or are diagnosed with COVID-19 by a licensed healthcare provider; and
 - Immediately remove from the workplace any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 by a licensed healthcare provider and keep the employee removed until the employee:
 - Receives a negative result on a COVID-19 nucleic acid amplification test (NAAT) following a positive result on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing;
 - Meets the return to work criteria in CDC's "Isolation Guidance" (incorporated by reference, §1910.509); or
 - Receives a recommendation to return to work from a licensed healthcare provider.

1 Twenty-one state-plan U.S. jurisdictions must choose whether to formally adopt the ETS or to issue their own standard that is at least as effective as the OSHA ETS. They include Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

2 OSHA's ETS is effective immediately in 29 jurisdictions, including Alabama, American Samoa, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Idaho, Illinois, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Northern Mariana Islands, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas, Virgin Islands, West Virginia, and Wisconsin.

3 Employers must have an employee vaccination status roster in place by December 6, 2021, and should implement a system to keep that roster current as employees work toward receiving the final doses of their chosen vaccine regimen by January 4, 2022.

5. [Face Coverings](#)

- The employer must ensure that each employee who is not fully vaccinated wears a face covering when indoors and when occupying a vehicle with another person for work purposes, except under certain, designated circumstances.

6. [Information for Employees](#)

- The employer must inform each employee, in a language and at a literacy level the employee understands, about:
 - The requirements of this section as well as any employer policies and procedures established to implement this section;
 - COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated, by providing the document, “[Key Things to Know About COVID-19 Vaccines](#).”
 - The anti-retaliation and non-discrimination provisions of [29 CFR 1904.35\(b\)\(1\)\(iv\)](#) and section 11(c) of the OSH Act.
 - The prohibitions of [18 U.S.C. 1001](#) and of [section 17\(g\)](#) of the OSH Act, providing for criminal penalties associated with knowingly supplying false statements or documentation.

January 4, 2021 Deadlines, 29 CFR 1910.501(m)(2)(ii)

1. [Testing for Not-Fully-Vaccinated Employees](#)

- Employees who have received the final vaccine dose of their chosen course do not need to be tested:
 - Employers must ensure that employees have received both shots of a two-dose vaccination regimen, or one dose for single-dose vaccines by January 4, 2022; or
- Employees must undergo at least weekly testing, or test within 7 days before returning to work (if away from the workplace for a week or longer).
 - Employees who fail to provide timely test documentation must be sent home. Employers must retain and treat test records as confidential medical records.
- Over-the-counter antigen testing is acceptable. However, testing cannot be both self-administered and self-read unless observed by the employer or an authorized telehealth proctor.
- Testing can be unpaid; however, accommodations requirements, state law, or bargaining issues may require payment.

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