

OSHA Requirements for COVID Vaccinations Released for Employers with 100 or Greater

written by Lauri Moon | November 5, 2021

The long-anticipated OSHA requirements for COVID-19 vaccinations impacting businesses with employees of 100 and more has been released November 4, 2021. Compliance to what is termed an “Emergency Temporary Standard” (ETS) is set for January 4, 2022.

Below is the OSHA issued ETS summary.

OSHA4162



EMERGENCY TEMPORARY STANDARD

SUMMARY
COVID-19 Vaccination and Testing ETS 

The Occupational Safety and Health Administration (OSHA) has issued an emergency temporary standard (ETS) to minimize the risk of COVID-19 transmission in the workplace. The ETS establishes binding requirements to protect unvaccinated employees of large employers (100 or more employees) from the risk of contracting COVID-19 in the workplace.

COVID-19 was not known to exist until January 2020, and since then nearly 745,000 people, many of them workers, have died from the disease in the U.S. alone. At the present time, workers are continually becoming seriously ill and dying as a result of occupational exposure to COVID-19. OSHA expects that the Vaccination and Testing ETS will result in approximately 23 million individuals becoming vaccinated. The agency has conservatively estimated that the ETS will prevent over 6,500 deaths and over 250,000 hospitalizations. In issuing the ETS, OSHA has made several important determinations:

Unvaccinated Workers Face Grave Danger: Unvaccinated workers are much more likely to contract and spread COVID-19 in the workplace than vaccinated workers. OSHA has determined that many employers in the U.S. who are not fully vaccinated against COVID-19 face a grave danger from exposure to COVID-19 in the workplace. This finding of grave danger is based on the severe health consequences associated with exposure to the virus along with evidence demonstrating the transmissibility of the virus in the workplace and the prevalence of infections in employee populations. The evidence for the finding of a grave danger is in Section II.A. of the ETS preamble.

An ETS is Necessary: Workers are becoming seriously ill and dying as a result of occupational exposure to COVID-19, when a simple measure, vaccination, can largely prevent these deaths and diseases. The ETS protects these workers through the most effective and efficient control available—vaccination—and further protects workers who cannot be vaccinated through required regular testing, use of face coverings, and removal of all infected employees from the workplace. OSHA also concludes, based on its enforcement experience during the pandemic to date, that continued reliance on existing standards and regulations, the General Duty Clause of the OSH Act, and workplace guidance, in lieu of an ETS, is not adequate to protect unvaccinated employees from COVID-19. Thus, OSHA has also determined that an ETS is necessary to protect unvaccinated workers from the risk of contracting COVID-19 at work. The evidence for the need for the ETS is in Section II.B. of the ETS preamble.

The ETS is Limited to Employers with 100 or More Employees: In light of the unique occupational safety and health dangers presented by COVID-19, and against the backdrop of the uncertain economic environment of a pandemic, OSHA is proceeding in a stepwise fashion in addressing the emergency this rule covers. OSHA is confident that employers with 100 or more employees have the administrative capacity to implement the standard's requirements promptly, but it is less confident that smaller employers can do so without undue difficulty. OSHA needs additional time to assess the capacity of smaller employers, and is willing to continue to help the agency make that determination. Nonetheless, the agency is acting to protect workers now in adopting a standard that will reach the breadth of all private sector workers in the nation, including those working in the largest facilities, where the most deadly outbreaks of COVID-19 can occur. Additional information on the scope of the ETS is found in Section II.B. of the ETS preamble.

The ETS is Feasible: OSHA has evaluated the feasibility of this ETS and has determined that the requirements of the ETS are both economically and technologically feasible. The evidence for feasibility is found in Section IV. of the ETS preamble. The specific