

CHECKLIST

COMPLYING WITH OSHA'S COVID-19 VACCINATION ETS - EMPLOYER CHECKLIST

Presented by Wallace Welch & Willingham

The Occupational Safety and Health Administration (OSHA) has issued an emergency temporary standard (ETS) that requires all businesses with 100 or more employees to ensure workers are either tested for COVID-19 once a week or fully vaccinated.

Brief Timeline of the ETS

The White House issued the ETS in November 2021. A week later, the order was blocked in federal court, effectively suspending enforcement of the rule.

On Dec. 17, 2021, the ETS was reinstated in federal court, allowing its enforcement to go forward. Employers now have until **Jan. 10, 2022**, to comply with most ETS obligations. **Feb. 9, 2022**, is the current deadline for employers to implement testing requirements.

This checklist is a jumping-off point to help employers prepare for the rule. Not all items will apply to all employers in every circumstance.

This checklist will be updated as the situation develops.

COVID-19 Vaccine and Testing Policy Development	Yes	No	N/A
Has your organization determined whether OSHA's ETS will apply to your workplace?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization begun taking steps to draft or update a COVID-19 vaccine/testing policy that complies with the OSHA ETS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your policy specify details for weekly testing of unvaccinated employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization considered how unvaccinated employees will be tested each week?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization considered a provision for employees to take paid time off to receive the vaccine and, if necessary, take paid time off work due to potential side effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization considered a date on which vaccination will be required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization considered how employees can verify they have received a vaccination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This checklist is merely a guideline. It is neither meant to be exhaustive nor meant to be construed as legal advice. It does not address all potential compliance issues with federal, state or local standards. Consult your licensed representative at Wallace Welch & Willingham or legal counsel to address possible compliance requirements. © 2021 Zywave, Inc. All rights reserved.

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Does your policy detail the disciplinary measures that will be used if an employee fails to comply by the designated deadline?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your policy clearly explain how employees can request a medical or religious exemption from COVID-19 vaccination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization considered which employee groups are not covered by the ETS (e.g., fully remote employees and those who work exclusively outdoors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Operations	Yes	No	N/A
Does your organization have a plan in place for confidentially documenting employee vaccination records in accordance with all applicable laws?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a plan in place for confidentially tracking employee COVID-19 test results in accordance with all applicable laws?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization planned out logistics for testing unvaccinated employees at least weekly or within seven days before returning to work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a policy in place that specifies when unvaccinated workers must wear face masks in accordance with the ETS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a tested system in place to review medical or religious exemption requests and, if necessary, make accommodations for employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a plan in place to address employee noncompliance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has your workplace planned for potential staffing shortages due to employees taking time off to get vaccinated or, if necessary, recover from potential side effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a plan in place to quickly share updates with employees as more information becomes available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a method in place for employees to promptly report when they've received a positive COVID-19 test or were diagnosed with COVID-19?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization plan to use multiple communication channels to reach all employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Does your organization have a policy in place for immediately removing employees who have tested positive for COVID-19, including contingencies for fulfilling their job duties in their absence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does your organization have a policy in place for reporting work-related COVID-19 deaths and hospitalizations to OSHA within the timeframes specified in the ETS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is your organization prepared to make certain records available for examination and copying to an employee (and anyone having written authorized consent of that employee) or an employee representative, as outlined in the ETS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Employee Communication Topics	Yes	No	N/A
<i>Does your organization have a plan to communicate the following topics to employees in a language that's appropriate and easy to understand?</i>			
The benefits of getting vaccinated and vaccination efficacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
To whom do the vaccine and testing policies apply	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether weekly COVID-19 testing is an option	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information about the requirements of the ETS and workplace policies established to implement the ETS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
As applicable, information on weekly COVID-19 testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Where employees can receive a vaccine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on taking paid time off of work to get vaccinated and recover from side effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The date by which employees need to be vaccinated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How employees can verify their vaccine statuses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How employees should request an exemption	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What consequences employees will face if they refuse to comply with workplace vaccination, testing and mask-wearing policies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The consequences for submitting false information about a vaccination status or COVID-19 diagnosis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
That employees are protected from retaliation and discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Applicable large employers can use this checklist to begin preparing to comply with the OSHA ETS. Contact Wallace Welch & Willingham today for more resources.