

NWRA FACT SHEET ON OSHA COVID-19 VACCINATION AND TESTING ETS

Under the new U.S. Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) for COVID-19, employers with 100 or more employees are required to ensure each of their workers is fully vaccinated or tests negative for COVID-19 on a weekly basis.

Key Dates:

- **December 5, 2021** – Employers must provide paid time off to receive vaccines and recover from side effects; unvaccinated employees must wear face masks when inside
- **January 4, 2022** – Deadline for employees to be fully vaccinated or tested on a weekly basis

Employers must:

- Determine the vaccination status of each employee and obtain acceptable proof of vaccination
- Maintain records and a roster of each employee's vaccination status
- Require employees, regardless of vaccination status, to provide prompt notice upon receiving a positive COVID-19 test result or diagnosis of COVID-19 by a licensed health care professional, remove them from the workplace and keep them out until return to work criteria are met
- Report work-related COVID-19 fatalities to OSHA within 8 hours and work-related COVID-19 in-patient hospitalizations within 24 hours of the employer learning about them

For Vaccinated Employees:

- Employees will need to have either two doses of the Pfizer or Moderna vaccine or one dose of the Johnson & Johnson vaccine no later than **January 4, 2022**, to be fully vaccinated
- Employers must provide up to four hours of paid time to receive each primary vaccination dose as well as reasonable time and paid sick leave to recover from any side effects experienced following each primary vaccination dose beginning **December 5, 2021**

For Unvaccinated Employees:

- Employers must ensure all unvaccinated employees produce a verified negative test for COVID-19 on at least a weekly basis beginning **January 4, 2022**
- Unvaccinated employees must wear face masks beginning **December 5, 2021**, when indoors or when occupying a vehicle with another person for work purposes
- The OSHA ETS does not require employers to provide or pay for tests nor does it require them to pay for face masks. (*Employers may be required to pay for testing because of other laws or collective bargaining agreements.*)

The requirements of the ETS do not apply to:

- Employees who do not report to a workplace where other individuals are present
- Employees while working from home
- Employees who work exclusively outdoors
- Those covered by either the Federal Contractor guidance or Healthcare ETS

These rules preempt any inconsistent state or local laws, including laws that ban or limit an employer's authority to require vaccination, masks or testing.

In States with OSHA-approved State Plans, this ETS does not significantly limit State policy options. Any special workplace problems or conditions in a State with an OSHA-approved State Plan may be dealt with by that State's standard, provided the standard is at least as effective as this ETS.

OSHA plans to have programmed or planned inspections, where agents go into workplaces to check that the workplace is in compliance with the rule. **For what OSHA refers to as willful penalties, a company can be fined \$136,532.** (The standard penalty is \$13,653 for a single violation and the number would increase if there are multiple violations in a workplace.)