

WEBINAR:

Understanding Biden's New Vaccine Mandates

See how OSHA's Vaccine Emergency
Temporary Standards impacts your business



Today's Agenda



01

Background of
the OSHA Vaccine
ETS

02

Policy
qualifications
and compliance
requirements

03

Q&A



Why **it matters**

OSHA's **vaccine Emergency Temporary Standard (ETS)** is the latest effort to close the gap.

Employer-mandated vaccination policies have successfully:

- Increased vaccination (70% of eligible adults)
- Decreased COVID infection, serious illness and death
- Helped mitigate increased risks from Delta variant



Begin preparing now. We are monitoring:

- Pending litigation
- Possible HIOSH policy specific to Hawaii

Who must comply

Any private employer
with **100 or more**
qualifying employees.



Qualification	Included in the 100 minimum threshold?
W2	Yes. All full- and part-time employees, irrespective of number of hours worked
1099	No.
ProService PEO FEIN	No. (Only employees from <i>your</i> entity are included)
Multiple locations	Yes. All employees in all your locations of your entity
Related entities	Centralized Safety Program - Yes. All entities that follow common OSHA/HIOSH policies. Decentralized Safety Program - No if each program governs <100 employees
Franchisees	Yes. Employees from <i>your</i> entity are included
Staffing agencies	Yes. Any workers you pay and provide benefits to as part of your entity




Related Requirements

Certain employers are covered by other vaccine mandates and must defer to those specific rules, such as:

1. **Healthcare employers** covered by the Healthcare ETS (1910.502) ~ Summer 21
2. **Federal contractors/subcontractors** covered by the Safer Federal Workforce Task Force rules ~ September 21
3. **Medicare/Medicaid certified workplaces** covered by the Centers for Medicare & Medicaid Services ~ November 21





The **Scope** of OSHA's Vaccine ETS



SCOPE 1 | ADMINISTRATIVE RULES

1. Create a **written policy** on vaccines, testing, and face coverings
2. Communicate ETS policy **requirements** and rights to employees
3. Provide **paid time off** (up to 4 hours) to get vaccinated, and paid sick leave if experiencing side effects which inhibit work
4. Maintain **records and rosters** of employee vaccination/test status
5. Comply with **notice and reporting** requirements when there is a positive COVID case



SCOPE 2 | VACCINE/TEST RULES

- All employees must **show proof of being full vaccinated**
- Or, **test for COVID** at least weekly and **wear a face covering**



WHAT'S NEXT?

- ETS can remain in effect for six months
- Could be replaced by permanent and/or new order

Medical and Religious Accommodations

Employee must complete **exemption form**.

Employers must:

1. **Perform Reasonable Accommodation Analysis for the employee's position.**
How can we eliminate in-person contact?
2. **Balance with Undue Hardship.**
How feasible are these adjustments?
3. **Discuss with employee.**
How can we find a mutually acceptable work assignment?
4. **Find resolution.** If unable to agree, may place on indefinite unpaid leave, or separate.



Vaccination or Weekly Test is **not required for employees who work with zero in-person contact** with other people.

Applies to those who work:

- From home
- Separate from co-workers, customers
- 100% outdoors, with proper social distancing possible



If the employee **chooses not to vaccinate** and **does not either have a bonafide medical or religious exemption**, or **cannot perform their job with zero in-person contact**:

- Indefinite leave without pay, or
- Separation



Employer costs

i.e. Who pays for what?

	OSHA Vaccine ETS	PSH Guidance (if stricter)
Time to receive the vaccine	PTO (up to 4 hours)	
Time to recover from side effects of the vaccine	Paid sick leave	
Time for unvaccinated workers to get COVID tested	None	PTO
COVID test costs for unvaccinated workers	None	Employer pays





Non-compliance is **costly**.

How much could HIOSH/OSHA fine my business?

- Up to \$13,653 per violation for serious violations
- 10X that for willful or repeated violations

How will HIOSH/OSHA manage compliance audits?

- Likely based on non-compliance complaints or reports to OSHA/HIOSH
- If HIOSH comes to your site for *any* reason, they can audit for all COVID compliance, including OSHA Vaccine ETS



Q&A

Q: Will we be required to collect proof of vaccination?

Q: What best practices are recommended for proving vaccination status?