

Healthcare COVID-19 ETS

Field FAQ

This is an initial attempt to collect questions raised in various regional and area offices for which standard response language may be beneficial.

Why issue an ETS only for healthcare?

The emergency temporary standard is tailored to cover the workers most likely to come into contact with someone carrying the virus. The science tells us that healthcare workers, particularly those who come into regular contact with people either suspected of having or being treated for COVID-19, are most at risk. This includes those working at hospitals, nursing homes, emergency responders, and other high-risk areas in healthcare settings.

Why now when vaccinations are high and COVID cases low?

OSHA recognizes the tremendous success of the nation's vaccination campaign, coupled with the evolving nature of the CDC's guidance on what activities and practices are considered safe for fully vaccinated people. The ETS and OSHA's guidance, enforcement, and compliance assistance efforts, in conjunction with the ongoing vaccination campaign, are making a difference and it's important to maintain these efforts in order to continually protect workers from this virus.

How is OSHA going to enforce the ETS?

The ETS was effective immediately upon publication in the Federal Register (June 21st). Employers had to comply with most provisions by July 6, and must comply with provisions involving physical barriers, ventilation, and training by July 21. These dates determine when OSHA can begin enforcing the provisions of the ETS. OSHA will enforce the ETS pursuant to the inspection procedures and enforcement policies set out in its ETS enforcement directive (see https://www.osha.gov/sites/default/files/enforcement/directives/DIR_2021-02_CPL_02.pdf).

OSHA determined that compliance with the requirements of the ETS within the specified dates is achievable under most circumstances and many employers are likely already in compliance with at least some of the provisions of the ETS. However, OSHA's experience with issuing standards shows that, in isolated circumstances, some employers will, despite their best efforts, be unable to comply with all requirements by the specified compliance dates. OSHA is willing to use its enforcement discretion in situations where an employer can show it has made good faith efforts to comply with the requirements of the standard, but has been unable to do so.

Nonformal complaint – the person sitting next to me is not wearing a mask and I know he is not vaccinated

Employees in healthcare settings covered by the ETS who do not use respirators generally must wear facemasks that meet FDA standards when indoors and when occupying a vehicle with another person for work purposes. If employees are not following established PPE and facemask protocols, an employer should determine how to ensure compliance. However, the ETS exempts fully vaccinated workers from masking, distancing, and barrier requirements when in well-

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defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present. To meet this exemption, the employer's COVID-19 plan must include policies and procedures to determine employees' vaccination status.

Nonvaccinated people are not physically distancing from each other

The ETS requires employers to ensure that each employee is separated from all other people by at least 6 feet when indoors unless the employer can demonstrate that such physical distancing is not feasible for a specific activity (e.g., hands-on medical care). When employees are not separated from others by at least 6 feet at fixed work spaces outside of direct patient care areas, the ETS requires employers to install cleanable or disposable solid barriers, except where the employer can demonstrate it is not feasible. The physical distancing requirements in the ETS do not apply to fully-vaccinated employees in well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present.

How does my employer know everyone's vaccination status?

There are a number of ways employers could approach determining the vaccination status of their employees. For example, some employers may have required employees to be vaccinated and will have records of vaccinations. Additionally, some small employers may already know whether their workers are vaccinated because it was a topic of conversation as people became eligible and received the vaccine. Other employers could, when not otherwise prohibited by law, ask employees to either provide documentation of, or attest to, their vaccination status. Employers should determine which approach is right for them based on Federal, state, or local laws and any collective bargaining agreements. If an employer is unable to determine the vaccination status of an employee, the employer would need to comply with the ETS as though the employee is not vaccinated.

Is the following correct: If you are vaccinated you do not need to wear a mask or keep socially distant as long as your state government does not say anything differently?

The ETS exempts fully vaccinated workers from masking, distancing, and barrier requirements when in well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present. To meet this exemption, the employer's COVID-19 plan must include policies and procedures to determine employees' vaccination status. The ETS applies in full to all other employees (i.e., to any employees who are not fully vaccinated) in these well-defined areas, as well as to all employees, including those who are fully vaccinated, in other areas of the workplace (assuming no other exception applies).

Can private employers require their employees to be vaccinated?

The ETS requires employers in covered settings to offer **paid** time off for employees to receive the vaccine and for vaccination side effects. The ETS does not require employers to mandate vaccination for their employees, nor does it preclude employers from doing so. However, other Federal, state and local laws may apply. See, for example, guidance from the EEOC at <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

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Will there be an ETS that covers any non-healthcare employers? If not, why?

OSHA is not releasing a non-healthcare standard at this time. Nonetheless, OSHA has released [guidance for non-healthcare employers](#) because there are still workers outside of healthcare who are not vaccinated and who need protections to be safe at work. This guidance describes recommended workplace protections for unvaccinated and otherwise at-risk workers, as well as mandatory OSHA standards that apply to protecting workers from infection, and the requirement under the General Duty Clause, Section 5(a)(1) of the OSH Act, to provide a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm. The agency will continue to update and release guidance as appropriate. For additional updates see www.osha.gov/coronavirus.

Will OSHA expect all other employers to continue implementing COVID-19 related controls? If so, what controls are expected?

Yes, OSHA's guidance for settings not covered by the ETS describes recommended workplace protections for unvaccinated and otherwise at-risk workers. See <https://www.osha.gov/coronavirus/safework>. This guidance states that employers should engage with workers and their representatives to determine how to implement multi-layered interventions to protect unvaccinated or otherwise at-risk workers and mitigate the spread of COVID-19. These interventions include infection prevention controls such as physical distancing, face coverings, ventilation, and cleaning and disinfection. Additionally, OSHA encourages all employers to support workers seeking vaccination. OSHA's guidance places a special emphasis on non-healthcare industries noted for prolonged close-contacts, including meat and poultry processing, manufacturing, seafood, and grocery and high-volume retail. OSHA's guidance also describes mandatory OSHA standards that apply to protecting workers from infection and notes that where the ETS does not apply, employers are required under the General Duty Clause, Section 5(a)(1) of the OSH Act, to provide a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

Do non-healthcare employers need to require employees to wear a face covering?

Where the ETS does not apply, OSHA's guidance recommends that employers provide unvaccinated and otherwise at-risk workers with face coverings or surgical masks, unless their work task requires a respirator or other PPE. Such workers should wear a face covering that covers the nose and mouth to contain the wearer's respiratory droplets and help protect others and potentially themselves. Face coverings should be made of at least two layers of a tightly woven breathable fabric, such as cotton, and should not have exhalation valves or vents. They should fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face. Unless otherwise provided by federal, state, or local requirements, unvaccinated workers who are outdoors may opt not to wear face coverings unless they are at-risk, for example, if they are immunocompromised. Regardless, all workers should be supported in continuing face covering use if they choose, especially in order to safely work closely with other people. Employers should ensure they are following state and local laws when determining face covering policies. In addition, employers should continue to refer to industry-specific OSHA and CDC guidance regarding the recommended use of face coverings and other infection prevention controls. See OSHA's [guidance](#) for additional information on face covering use in settings not covered by the ETS.

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Will OSHA continue to enforce basic precautions such as face coverings, social distancing, and barriers under 5(a)(1) for non-healthcare facilities?

OSHA continues to have the ability to use the General Duty Clause (section 5(a)(1)) to enforce COVID-19 measures in certain circumstances when necessary to protect workers in settings that are not covered by the ETS. OSHA will continue to vigorously enforce the General Duty Clause as well as the OSH Act's whistleblower protections to ensure that workers receive necessary protections under the OSH Act. Additional information can be found in the agency's [updated interim response plan](https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07). See <https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07>.

If an employer's state or local government does not have any COVID-related order or mandate, what are their obligations under the OSH Act?

Absent an exception, employers providing healthcare and healthcare support services must comply with the requirements in the ETS. Other employers should continue to protect workers from COVID-19 using industry-specific guidance from both OSHA and CDC. OSHA will continue to vigorously enforce the General Duty Clause as well as the OSH Act's whistleblower protections to ensure that workers receive necessary protections under the OSH Act. Additional information can be found in the agency's [updated interim response plan](https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07). See <https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07>.

If I'm in meat packing, can I remove all of my barriers?

The ETS does not contain any requirements for work settings where no employees provide healthcare or healthcare support services. However, in addition to the healthcare-focused ETS, OSHA issued [guidance](#) to help employers in other settings protect workers who are unvaccinated or otherwise at-risk. OSHA's guidance places a special emphasis on industries noted for prolonged close contacts, like meat and poultry processing, manufacturing, seafood processing, and grocery and high-volume retail. In the guidance, OSHA states that employers should engage with workers and their representatives to determine how to implement multi-layered interventions to protect unvaccinated or otherwise at-risk workers and mitigate the spread of COVID-19. These interventions include infection prevention controls such as physical barriers, physical distancing, face coverings, ventilation, and cleaning and disinfection. With respect to barriers in particular, OSHA states that at fixed workstations where unvaccinated or otherwise at-risk workers are not able to remain at least 6 feet away from other people, transparent shields or other solid barriers (e.g., fire resistant plastic sheeting or flexible strip curtains) can be used to separate these workers from other people. These barriers should be weighted or secured to ensure that they remain in position to separate the workers. See OSHA's Updated Interim Enforcement Response Plan at <https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07> for more information about how OSHA will be enforcing protections for workers in non-healthcare industries.

Is a non-healthcare employer required to perform temperature checks or screening for employees?

Where the ETS does not apply, employers should still protect unvaccinated and otherwise at-risk workers using infection prevention controls, which could include screening employees. Additionally, OSHA encourages all employers to support workers seeking vaccination.

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Do I need to have a COVID-19 plan if I'm not in healthcare?

Even where the ETS does not apply, employers need to protect unvaccinated and otherwise at-risk workers and should have a written safety and health plan that includes contingency planning for emergencies and natural disasters, such as the current pandemic, or a COVID-19 plan that includes preparedness, response, and control measures for the SARS-CoV-2 virus.

I'm a small employer, how do I keep up with all of the changing CDC and OSHA guidelines?

OSHA recommends frequently checking both the CDC and OSHA websites for updates on general and industry-specific guidance. See www.osha.gov/coronavirus/safework. For employers covered by the ETS, OSHA has provided compliance assistance materials, available at www.osha.gov/coronavirus/ets.