

COVID-19 OSHA ETS Preparation Webinar 10.20.21 FAQs

1. Are over the counter (OTC) COVID-19 tests valid and reliable?
 - a. Most OTC COVID-19 tests are called antigen tests. Although not as accurate as the PCR nasal test performed at medical centers, these less expensive tests performed for surveillance on a weekly basis provide good screening to pick up COVID-19 positive individuals.
2. Can antigen tests be used for the anticipated weekly testing requirements?
 - a. Yes these tests can be used for weekly surveillance testing.
3. Can a vaccine be mandated if the vaccine is not FDA approved?
 - a. There are 3 vaccines approved in the US for the prevention of COVID-19. Pfizer has full FDA approval for ages 18 or older, Moderna and Johnson & Johnson have Emergency Use Authorization (EUA) for ages 18 or older.
4. Is the 100+ employee threshold for the anticipated mandate to be based on location or total employee count?
 - a. The anticipated OSHA Emergency Temporary Standard (ETS) will likely use the 100+ employee threshold for total US-based company employees. It will not be based on site specific numbers.
5. Is the federal government going to help employers with the extra costs of testing unvaccinated employees?
 - a. The answer to this will hopefully be released with the ETS. Some states have stated that they will provide the testing kits free of charge. Some states have not offered these free kits.
6. Are there individual testing exemptions for those with disabilities?
 - a. Any mandate allows exemptions for medical/disability and religious reasons. These individuals like all employees can apply for exemptions and if needed an individual assessment must be made to see if reasonable accommodations are available.
7. What if employees don't have PTO or sick time available for vaccination or recovery?
 - a. The anticipated ETS will outline employer's requirements for providing employee time off for vaccination or recovery from vaccination.
8. If an employer mandates the vaccine and their employee is the rare individual with complications from the vaccine, is the employer legally responsible for the adverse reactions?
 - a. If the vaccine is mandated for work, any work-related injury will be dealt with through the workers' compensation system. A claim can be filed by the injured worker and the workers' compensation agency will determine compensability.
9. What is the cost of training and testing employees weekly?
 - a. At the present time the costs are not available for the kits. Their supply is an issue, but the cost per kit will likely be in the single digits. The training cost will be a one-time fee. Once the ETS details are available, we will send out information on pricing.
10. Is it known how long this ETS will be in effect?
 - a. It is called an emergency temporary standard. This implies that it is not permanent and likely will be in effect as long as the COVID-19 emergency is present.
11. If there are disincentives for not being vaccinated, why not create disincentives for COVID-19 comorbidities like smoking and obesity?

- a. Incentives (negative or positive) can be applied for wellness programs at work. The vaccine is a wellness program. Weight loss and smoking cessation programs are also wellness programs that can be promoted through employer incentives.
12. Should we space out our flu shot and the COVID/Booster shot? Best timing?
- a. The COVID-19 and flu shots can be given at the same time. The only requirement is that the shots be given in different arms.
13. Can employees do over the counter tests themselves and show the test results to the employer?
- a. The anticipated ETS will answer these questions. Employee self-administered tests may lack the verification that the test was done correctly and actually performed on the employee. There likely will need to be a direct observation of the test being performed or more likely that the test will be performed by a company agent.
14. Will companies be required to report test results?
- a. There is likely to be a requirement to report COVID-19 tests performed through company surveillance.
15. In Minnesota, testing is currently free through community sites. Are we able to utilize these sites instead of paying for testing?
- a. We are working with the individual state departments of health to understand what support they can give to companies regarding this mandate.
16. Why isn't there a requirement to test vaccinated people even though we know they can contract and spread COVID-19?
- a. You bring up an important point. The information I provide at these webinars is based on the best available knowledge at the time of the presentation. As our knowledge of COVID-19 has grown, we have had to evolve with the knowledge and make the best recommendations. Currently, we know that vaccinated individuals are less likely to develop COVID-19 than individuals who are not vaccinated. Both vaccinated and unvaccinated individuals can develop asymptomatic COVID-19 infections. Although we now know that vaccinated individuals can contract COVID-19 and are potentially able to pass the disease on to others, they have a lower virus load in their upper respiratory tract and tend to be less likely to spread the disease to others.
17. If the antibodies remain in your system in part to help provide immunity, wouldn't people who had the infection previously still have the same level of immunity as vaccinated people?
- a. People who have had COVID-19 infection and those who have received the COVID-19 vaccine do have a lowering of circulating antibodies in their blood stream with time. Those who have had COVID-19 and also get the vaccine are the most protected individuals from future COVID-19 infections.
18. Does testing only unvaccinated employees contradict medical privacy?
- a. The Equal Employment Opportunity laws state that a company can obtain an employee's vaccination status and can request COVID-19 testing on site as needed to provide workplace safety. They must keep the medical records confidential and separate from the employee's personnel file.
19. Will Sanford OccMed provide guidance and weekly testing to meet the requirements of the anticipated COVID-19 OSHA ETS?
- a. Yes. OccMed has developed a program to help companies meet the requirements of the anticipated OSHA ETS. This will include, helping the company set up the program, obtain

testing kits, train on how to perform the testing, and help with reporting of the weekly testing results. Once the ETS is released, we will provide more specific details of the program.