

For the reasons set forth in the preamble, chapter XVII of title 29 of the Code of Federal Regulations is amended as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart U — COVID-19

1. Revise the heading for Subpart U to read as set forth above.
2. The authority citation for subpart U continues to read as follows:

Authority: 29 U.S.C. 653, 655, and 657; Secretary of Labor’s Order No. 8-2020 (85 FR 58393); 29 CFR part 1911; and 5 U.S.C. 553.

3. Add § 1910.501 to subpart U to read as follows:

§ 1910.501 Vaccination, testing, and face coverings.

(a) *Purpose.* This section is intended to establish minimum vaccination, vaccination verification, face covering, and testing requirements to address the grave danger of COVID-19 in the workplace, and to preempt inconsistent state and local requirements relating to these issues, including requirements that ban or limit employers’ authority to require vaccination, face covering, or testing, regardless of the number of employees.

Note 1 to paragraph (a): This section establishes minimum requirements that employers must implement. Nothing in this section prevents employers from agreeing with workers and their representatives to additional measures not required by this section and this section does not supplant collective bargaining agreements or other collectively negotiated agreements in effect that may have negotiated terms that exceed the requirements herein. The National Labor Relations Act of 1935 (NLRA) protects the right of most private-sector employees to take collective action to improve their wages and working conditions.

(b) *Scope and application.* (1) This section covers all employers with a total of 100 or more employees at any time this section is in effect.

(2) The requirements of this section do not apply to:

- (i) Workplaces covered under the Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors;
or
- (ii) Settings where any employee provides healthcare services or healthcare support services when subject to the requirements of § 1910.502.

(3) The requirements of this section do not apply to the employees of covered employers:

- (i) Who do not report to a workplace where other individuals such as coworkers or customers are present;
- (ii) While working from home; or
- (iii) Who work exclusively outdoors.

(c) *Definitions.* The following definitions apply to this section.

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

COVID-19 (Coronavirus Disease 2019) means the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2). For clarity and ease of reference, this section also uses the term “COVID-19” when describing exposures or potential exposures to SARS-CoV-2.

COVID-19 test means a test for SARS-CoV-2 that is:

- (i) Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the FDA to detect current infection with the SARS-CoV-2 virus (e.g., a viral test);
- (ii) Administered in accordance with the authorized instructions; and
- (iii) Not both self-administered and self-read unless observed by the employer or an authorized telehealth proctor. Examples of tests that satisfy this

requirement include tests with specimens that are processed by a laboratory (including home or on-site collected specimens which are processed either individually or as pooled specimens), proctored over-the-counter tests, point of care tests, and tests where specimen collection and processing is either done or observed by an employer.

Face covering means a covering that:

- (i)(A) completely covers the nose and mouth;
 - (B) Is made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source);
 - (C) Is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
 - (D) Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
 - (E) Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.
- (ii) This definition includes clear face coverings or cloth face coverings with a clear plastic panel that, despite the non-cloth material allowing light to pass through, otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

Facemask means a surgical, medical procedure, dental, or isolation mask that is FDA-cleared, authorized by an FDA EUA, or offered or distributed as described in an FDA enforcement policy. Facemasks may also be referred to as “medical procedure masks.”

Fully vaccinated means:

- (i) A person's status 2 weeks after completing primary vaccination with a COVID-19 vaccine with, if applicable, at least the minimum recommended interval between doses in accordance with the approval, authorization, or listing that is:
 - (A) Approved or authorized for emergency use by the FDA;
 - (B) Listed for emergency use by the World Health Organization (WHO); or
 - (C) Administered as part of a clinical trial at a U.S. site, if the recipient is documented to have primary vaccination with the active (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board) or if the clinical trial participant at U.S. sites had received a COVID-19 vaccine that is neither approved nor authorized for use by FDA but is listed for emergency use by WHO; or
- (ii) A person's status 2 weeks after receiving the second dose of any combination of two doses of a COVID-19 vaccine that is approved or authorized by the FDA, or listed as a two-dose series by the WHO (i.e., a heterologous primary series of such vaccines, receiving doses of different COVID-19 vaccines as part of one primary series). The second dose of the series must not be received earlier than 17 days (21 days with a 4-day grace period) after the first dose.

Mandatory Vaccination Policy is an employer policy requiring each employee to be fully vaccinated. To meet this definition, the policy must require: vaccination of all employees, including vaccination of all new employees as soon as practicable, other than those employees:

- (i) For whom a vaccine is medically contraindicated;
- (ii) For whom medical necessity requires a delay in vaccination; or

- (iii) Who are legally entitled to a reasonable accommodation under federal civil rights laws because they have a disability or sincerely held religious beliefs, practices, or observances that conflict with the vaccination requirement.

Respirator means a type of personal protective equipment (PPE) that is certified by the National Institute for Occupational Safety and Health (NIOSH) under 42 CFR part 84 or is authorized under an EUA by the FDA. Respirators protect against airborne hazards by removing specific air contaminants from the ambient (surrounding) air or by supplying breathable air from a safe source. Common types of respirators include filtering facepiece respirators (e.g., N95), elastomeric respirators, and powered air purifying respirators (PAPRs). Face coverings, facemasks, and face shields are not respirators.

Workplace means a physical location (e.g., fixed, mobile) where the employer's work or operations are performed. It does not include an employee's residence.

(d) *Employer policy on vaccination.* (1) The employer must establish, implement, and enforce a written mandatory vaccination policy.

- (2) The employer is exempted from the requirement in paragraph (d)(1) of this section only if the employer establishes, implements, and enforces a written policy allowing any employee not subject to a mandatory vaccination policy to choose either to be fully vaccinated against COVID-19 or provide proof of regular testing for COVID-19 in accordance with paragraph (g) of this section and wear a face covering in accordance with paragraph (i) of this section.

Note 1 to paragraph (d): Under federal law, including the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964, workers may be entitled to a reasonable accommodation from their employer, absent undue hardship. If the worker requesting a reasonable accommodation cannot be vaccinated and/or wear a face covering because of a disability, as defined by the ADA, the worker may be entitled to a

reasonable accommodation. In addition, if the vaccination, and/or testing for COVID-19, and/or wearing a face covering conflicts with a worker's sincerely held religious belief, practice or observance, the worker may be entitled to a reasonable accommodation. For more information about evaluating requests for reasonable accommodation for disability or sincerely held religious belief, employers should consult the Equal Employment Opportunity Commission's regulations, guidance, and technical assistance including at: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

(e) *Determination of employee vaccination status.* (1) The employer must determine the vaccination status of each employee. This determination must include whether the employee is fully vaccinated.

(2) The employer must require each vaccinated employee to provide acceptable proof of vaccination status, including whether they are fully or partially vaccinated.

Acceptable proof of vaccination status is:

- (i) The record of immunization from a health care provider or pharmacy;
- (ii) A copy of the COVID-19 Vaccination Record Card;
- (iii) A copy of medical records documenting the vaccination;
- (iv) A copy of immunization records from a public health, state, or tribal immunization information system; or
- (v) A copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s);
- (vi) In instances where an employee is unable to produce acceptable proof of vaccination under paragraphs (e)(2)(i) through (v) of this section, a signed and dated statement by the employee:

- (A) Attesting to their vaccination status (fully vaccinated or partially vaccinated);
- (B) Attesting that they have lost and are otherwise unable to produce proof required by this section; and
- (C) Including the following language: “I declare (or certify, verify, or state) that this statement about my vaccination status is true and accurate. I understand that knowingly providing false information regarding my vaccination status on this form may subject me to criminal penalties.”

Note 1 to paragraph (e)(2)(vi): An employee who attests to their vaccination status should, to the best of their recollection, include the following information in their attestation: the type of vaccine administered; date(s) of administration; and the name of the health care professional(s) or clinic site(s) administering the vaccine(s).

- (3) Any employee who does not provide one of the acceptable forms of proof of vaccination status in paragraph (e)(2) of this section to the employer must be treated as not fully vaccinated for the purpose of this section.
- (4) The employer must maintain a record of each employee’s vaccination status and must preserve acceptable proof of vaccination for each employee who is fully or partially vaccinated. The employer must maintain a roster of each employee’s vaccination status. These records and roster are considered to be employee medical records and must be maintained as such records in accordance with §1910.1020 and must not be disclosed except as required or authorized by this section or other federal law. These records and roster are not subject to the retention requirements of § 1910.1020(d)(1)(i) but must be maintained and preserved while this section remains in effect.

(5) When an employer has ascertained employee vaccination status prior to the effective date of this section through another form of attestation or proof, and retained records of that ascertainment, the employer is exempt from the requirements in paragraphs (e)(1) through (3) of this section only for each employee whose fully vaccinated status has been documented prior to the effective date of this section. For purposes of paragraph (e)(4) of this section, the employer's records of ascertainment of vaccination status for each such person constitute acceptable proof of vaccination.

(f) *Employer support for employee vaccination.* The employer must support COVID-19 vaccination as described in this paragraph.

(1) *Time for vaccination.* The employer must:

- (i) Provide a reasonable amount of time to each employee for each of their primary vaccination dose(s); and
- (ii) Provide up to 4 hours paid time, including travel time, at the employee's regular rate of pay for this purpose.

(2) *Time for recovery.* The employer must provide reasonable time and paid sick leave to recover from side effects experienced following any primary vaccination dose to each employee for each dose.

(g) *COVID-19 testing for employees who are not fully vaccinated.* (1) The employer must ensure that each employee who is not fully vaccinated complies with paragraph (g)(1)(i) or (ii) of this section:

- (i) An employee who reports at least once every 7 days to a workplace where other individuals such as coworkers or customers are present:
 - (A) Must be tested for COVID-19 at least once every 7 days; and

(B) Must provide documentation of the most recent COVID-19 test result to the employer no later than the 7th day following the date on which the employee last provided a test result.

(ii) An employee who does not report during a period of 7 or more days to a workplace where other individuals such as coworkers or customers are present (e.g., teleworking for two weeks prior to reporting to a workplace with others):

(A) Must be tested for COVID-19 within 7 days prior to returning to the workplace; and

(B) Must provide documentation of that test result to the employer upon return to the workplace.

Note 1 to paragraph (g)(1): This section does not require the employer to pay for any costs associated with testing; however employer payment for testing may be required by other laws, regulations, or collective bargaining agreements or other collectively negotiated agreements. This section also does not prohibit the employer from paying for costs associated with testing required by paragraph (g)(1) of this section.

(2) If an employee does not provide documentation of a COVID-19 test result as required by paragraph (g)(1) of this section, the employer must keep that employee removed from the workplace until the employee provides a test result.

(3) When an employee has received a positive COVID-19 test, or has been diagnosed with COVID-19 by a licensed healthcare provider, the employer must not require that employee to undergo COVID-19 testing as required under paragraph (g) of this section for 90 days following the date of their positive test or diagnosis.

(4) The employer must maintain a record of each test result provided by each employee under paragraph (g)(1) of this section or obtained during tests conducted by the employer. These records are considered to be employee

medical records and must be maintained as such records in accordance with § 1910.1020 and must not be disclosed except as required or authorized by this section or other federal law. These records are not subject to the retention requirements of § 1910.1020(d)(1)(i) but must be maintained and preserved while this section remains in effect.

(h) Employee notification to employer of a positive COVID-19 test and removal.

Regardless of COVID-19 vaccination status or any COVID-19 testing required under paragraph (g) of this section, the employer must:

- (1) Require each employee to promptly notify the employer when they receive a positive COVID-19 test or are diagnosed with COVID-19 by a licensed healthcare provider; and
- (2) Immediately remove from the workplace any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 by a licensed healthcare provider and keep the employee removed until the employee:
 - (i) Receives a negative result on a COVID-19 nucleic acid amplification test (NAAT) following a positive result on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing;
 - (ii) meets the return to work criteria in CDC’s “Isolation Guidance” (incorporated by reference, § 1910.509); or
 - (iii) Receives a recommendation to return to work from a licensed healthcare provider.

Note 1 to paragraph (h)(2): This section does not require employers to provide paid time to any employee for removal as a result of a positive COVID-19 test or diagnosis of COVID-19; however, paid time may be required by other laws, regulations, or collective bargaining agreements or other collectively negotiated agreements.

(i) *Face coverings.* (1) The employer must ensure that each employee who is not fully vaccinated wears a face covering when indoors and when occupying a vehicle with another person for work purposes, except:

(i) When an employee is alone in a room with floor to ceiling walls and a closed door.

(ii) For a limited time while the employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.

(iii) When an employee is wearing a respirator or facemask.

(iv) Where the employer can show that the use of face coverings is infeasible or creates a greater hazard that would excuse compliance with this paragraph (e.g., when it is important to see the employee's mouth for reasons related to their job duties, when the work requires the use of the employee's uncovered mouth, or when the use of a face covering presents a risk of serious injury or death to the employee).

(2) The employer must ensure that any face covering required to be worn by this section:

(i) Is worn by the employee to fully cover the employee's nose and mouth; and

(ii) Is replaced when wet, soiled, or damaged (e.g., is ripped, has holes, or has broken ear loops).

(3) The employer must not prevent any employee from voluntarily wearing a face covering or facemask unless the employer can demonstrate that doing so would create a hazard of serious injury or death, such as interfering with the safe operation of equipment.

(4) The employer must permit the employee to wear a respirator instead of a face covering whether required or not. In addition, the employer may provide

respirators to the employee, even if not required. In such circumstances, the employer must also comply with § 1910.504.

- (5) The employer must not prohibit customers or visitors from wearing face coverings.

Note 1 to paragraph (i)(5): Nothing in this section precludes employers from requiring customers or visitors to wear face coverings.

Note 1 to paragraph (i): Face shields may be worn in addition to face coverings to prevent them from getting wet and soiled.

Note 2 to paragraph (i): This section does not require the employer to pay for any costs associated with face coverings; however employer payment for face coverings may be required by other laws, regulations, or collective bargaining agreements or other collectively negotiated agreements. This section also does not prohibit the employer from paying for costs associated with face coverings required by this section.

(j) *Information provided to employees.* The employer must inform each employee, in a language and at a literacy level the employee understands, about:

- (1) The requirements of this section as well as any employer policies and procedures established to implement this section;
- (2) COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated, by providing the document, “Key Things to Know About COVID-19 Vaccines,” available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>;
- (3) The requirements of 29 CFR 1904.35(b)(1)(iv), which prohibits the employer from discharging or in any manner discriminating against an employee for reporting a work-related injuries or illness, and section 11(c) of the OSH Act, which prohibits the employer from discriminating against an employee for exercising rights under, or as a result of actions that are required by, this section.

Section 11(c) also protects the employee from retaliation for filing an occupational safety or health complaint, reporting a work-related injury or illness, or otherwise exercising any rights afforded by the OSH Act; and

(4) The prohibitions of 18 U.S.C. 1001 and of section 17(g) of the OSH Act, which provide for criminal penalties associated with knowingly supplying false statements or documentation.

(k) *Reporting COVID-19 fatalities and hospitalizations to OSHA.* (1) The employer must report to OSHA:

(i) Each work-related COVID-19 fatality within 8 hours of the employer learning about the fatality.

(ii) Each work-related COVID-19 in-patient hospitalization within 24 hours of the employer learning about the in-patient hospitalization.

(2) When reporting COVID-19 fatalities and in-patient hospitalizations to OSHA in accordance with paragraph (j)(1) of this section, the employer must follow the requirements in 29 CFR part 1904.39, except for 29 CFR part 1904.39(a)(1) and (2) and (b)(6).

(l) *Availability of records.* (1) By the end of the next business day after a request, the employer must make available, for examination and copying, the individual COVID-19 vaccine documentation and any COVID-19 test results for a particular employee to that employee and to anyone having written authorized consent of that employee.

(2) By the end of the next business day after a request by an employee or an employee representative, the employer must make available to the requester the aggregate number of fully vaccinated employees at a workplace along with the total number of employees at that workplace.

(3) The employer must provide to the Assistant Secretary for examination and copying:

- (i) Within 4 business hours of a request, the employer's written policy required by paragraph (d) of this section, and the aggregate numbers described in paragraph (1)(2) of this section; and
- (ii) By the end of the next business day after a request, all other records and other documents required to be maintained by this section.

(m) *Dates—(1) Effective date.* This section is effective as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) *Compliance dates.* (i) Employers must comply with all requirements of this section, except for requirements in paragraph (g) of this section, by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(ii) Employers must comply with the requirements of this section in paragraph (g) by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], but employees who have completed the entire primary vaccination by that date do not have to be tested, even if they have not yet completed the 2-week waiting period.

4. Amend § 1910.504 by revising paragraph (a) to read as follows:

§ 1910.504 Mini Respiratory Protection Program.

(a) *Scope and application.* This section applies only to respirator use in accordance with §§ 1910.501(i)(4) and 1910.502(f)(4).

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5. Republish § 1910.505 to read as follows:

§ 1910.505 Severability.

Each section of this subpart U, and each provision within those sections, is separate and severable from the other sections and provisions. If any provision of this subpart is held to be invalid or unenforceable on its face, or as applied to any person, entity, or

circumstance, or is stayed or enjoined, that provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this subpart and shall not affect the remainder of the subpart.

6. Amend § 1910.509 by revising paragraph (b)(5) to read as follows:

§ 1910.509 Incorporation by reference.

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(b) * * *

(5) *Isolation Guidance.* COVID-19: Isolation If You Are Sick; Separate yourself from others if you have COVID-19, updated February 18, 2021, IBR approved for §§ 1910.501(h) and 1910.502(l).

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PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

7. The authority citation for part 1915 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754); 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

Subpart Z – Toxic and Hazardous Substances

8. Add § 1915.1501 to subpart Z to read as follows:

§ 1915.1501 COVID-19.

The requirements applicable to shipyard employment under this section are identical to those set forth at 29 CFR 1910.501.

PART 1917—MARINE TERMINALS

9. The authority citation for part 1917 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

Sections 1917.28 and 1917.31 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801-1819 and 5 U.S.C. 553.

Subpart B – Marine Terminal Operations

10. Add § 1917.31 to subpart B to read as follows:

§ 1917.31 COVID-19.

The requirements applicable to marine terminal work under this section are identical to those set forth at 29 CFR 1910.501.

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

11. The authority citation for part 1918 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable; and 29 CFR 1911.

Sections 1918.90 and 1918.110 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 5101 et seq. and 5 U.S.C. 553.

12. Add subpart K to part 1918 to read as follows:

Subpart K – COVID-19.

Sec.

1918.107 -- 1918.109 [Reserved]

1918.110 COVID-19.

1918.107 through 1918.109 [Reserved]

§ 1918.110 COVID-19.

The requirements applicable to longshoring work under this section are identical to those set forth at 29 CFR 1910.501.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

13. The authority citation for part 1926 is revised to read as follows:

Authority: 40 U.S.C. 3704; 29 U.S.C. 653, 655, and 657; and Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

Sections 1926.58, 1926.59, 1926.60, and 1926.65 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

Section 1926.61 also issued under 49 U.S.C. 1801-1819 and 5 U.S.C. 553.

Section 1926.62 also issued under sec. 1031, Public Law 102-550, 106 Stat. 3672 (42 U.S.C. 4853).

Section 1926.65 also issued under sec. 126, Public Law 99-499, 100 Stat. 1614 (reprinted at 29 U.S.C.A. 655 Note) and 5 U.S.C. 553.

Subpart D – Occupational Health and Environmental Controls

14. Add § 1926.58 to read as follows:

§ 1926.58 COVID-19.

The requirements applicable to construction work under this section are identical to those set forth at 29 CFR 1910.501 Subpart U.

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

15. The authority citation for part 1928 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 4-2010 (75 FR 55355), or 8-2020 (85 FR 58393), as applicable; and 29 CFR 1911.

Section 1928.21 also issued under 49 U.S.C. 1801-1819 and 5 U.S.C. 553.

Subpart B – Applicability of Standards

16. Amend § 1928.21 by adding paragraph (a)(8) to read as follows:

§ 1928.21 Applicable standards in 29 CFR part 1910.

(a) * * *

(8) COVID-19- §1910.501, but only with respect to -

- (i) Agricultural establishments where eleven (11) or more employees are engaged on any given day in hand-labor operations in the field; and
- (ii) Agricultural establishments that maintain a temporary labor camp, regardless of how many employees are engaged on any given day in hand-labor operations in the field.

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COVID-19

Key Things to Know About COVID-19 Vaccines

Updated Oct. 7, 2021

[Print](#)

NOTICE: CDC now recommends that children between the ages of 5 and 11 years receive the Pfizer-BioNTech pediatric COVID-19 Vaccine. Learn more about [vaccines for children and teens](#).

What You Need to Know

- COVID-19 vaccines are effective at helping protect against severe disease and death, including from [variants of the virus](#) that causes COVID-19 currently circulating (e.g., Delta variant).
- [If you are fully vaccinated](#) you can resume activities that you did before the pandemic. However, you should wear a mask indoors in public if you are in an [area of substantial or high transmission](#). Being fully vaccinated and wearing a mask maximizes protection from the Delta variant and possibly spreading it to others.
- You may have [side effects](#) after vaccination. These are normal and should go away within a few days.
- Everyone aged 12 years and older is recommended to get vaccinated. [Learn how to find a COVID-19 vaccine](#).
- People who are [moderately to severely immunocompromised](#) are recommended to get an additional dose of an mRNA COVID-19 vaccine (i.e., Pfizer-BioNTech or Moderna).
- Certain groups of people are recommended to get a [Pfizer-BioNTech booster shot](#).



COVID-19 Vaccine ChatBot

Use SmartFind chat tool to find answers to common COVID-19 vaccination questions.

[Get Started](#)

Availability of Vaccines

COVID-19 vaccines are widely accessible in the United States. Everyone aged 12 years and older should [get a COVID-19 vaccination](#) as soon as possible.

COVID-19 vaccines are [available for everyone at no cost](#). Learn more about [how COVID-19 vaccines get to you](#).

Many doctors' offices, retail pharmacies, hospitals, and clinics offer COVID-19 vaccinations. Parents, check with your child's healthcare provider about whether they offer COVID-19 vaccination.

[Learn how to find a COVID-19 vaccine.](#)

Effectiveness

COVID-19 vaccines are effective at protecting you from COVID-19, especially severe illness and death. COVID-19 vaccines can reduce the risk of people spreading the virus that causes COVID-19. If you are fully vaccinated, you can resume activities that you did before the pandemic. Learn more about what you can do [when you have been fully vaccinated](#).

Studies show that COVID-19 vaccines are effective, especially at keeping you from getting seriously ill even if you do get COVID-19. Learn more about the [benefits of getting vaccinated](#).

COVID-19 vaccines teach our immune systems how to recognize and fight the virus that causes COVID-19. It typically takes **2 weeks after vaccination for the body to build protection** (immunity) against the virus that causes COVID-19. That means it is possible a person could still get COVID-19 before or just after vaccination and then get sick because the vaccine did not have enough time to build protection.

People are considered fully vaccinated 2 weeks after their second dose of the Pfizer-BioNTech or Moderna COVID-19 vaccines, or 2 weeks after the single-dose Johnson & Johnson's Janssen COVID-19 vaccine. To receive the most protection, people should **receive all recommended doses** of a COVID-19 vaccine. Learn more about who is recommended to get an [additional dose](#) or a [booster dose](#).

People can sometimes get COVID-19 after being fully vaccinated. However, this only happens in a small proportion of people, even with the Delta variant. When these infections occur among vaccinated people, they tend to be mild.

Learn more about the [effectiveness of COVID-19 vaccines](#).



Safety

COVID-19 vaccines are [safe and effective](#). Vaccines cannot give you COVID-19. You may have side effects after vaccination. These are normal and should go away within a few days.

Millions of people in the United States have received COVID-19 vaccines, and these vaccines have undergone and continue to undergo the most intensive safety monitoring in U.S. history. This monitoring includes using both established and new safety monitoring systems to make sure that COVID-19 vaccines are safe. COVID-19 vaccines cannot give you COVID-19. Read more to [bust myths and learn the facts about COVID-19 vaccines](#).

CDC has developed a new tool, **v-safe**, to help us quickly find any safety issues with COVID-19 vaccines. **V-safe** is a smartphone-based, after-vaccination health checker for people who receive COVID-19 vaccines. Learn how the federal government is [working to ensure the safety of COVID-19 vaccines](#).

While COVID-19 vaccines were developed rapidly, [all steps have been taken to ensure their safety and effectiveness](#).

You may have side effects after vaccination, but these are normal

After COVID-19 vaccination, you may have some side effects. These are normal signs that your body is building protection. The side effects from COVID-19 vaccination, such as tiredness, headache, or chills, may affect your ability to do daily activities, but they should go away within a few days. Learn more about [what to expect after getting vaccinated](#).

Population Immunity

Population immunity, also known as herd immunity or community immunity, means that enough people in a community are protected from getting a disease because they've already had the disease or because they've been vaccinated.

Population immunity makes it hard for a disease to spread from person to person. It even protects those who cannot be vaccinated, like newborns or people who are allergic to a vaccine. The percentage of people who need to have protection to achieve population immunity varies by disease.

We are still learning **how many people** need to be vaccinated against COVID-19 before the population can be considered protected.

As we know more, CDC will continue to update our recommendations for both vaccinated and unvaccinated people.

Variants and Vaccines

- COVID-19 vaccines approved or authorized by the U.S. Food and Drug Administration (FDA) help protect against [Delta and other known variants](#).
- These vaccines are especially effective at keeping people from getting very sick or dying from COVID-19.
- To maximize protection against the [Delta variant](#) and prevent possibly spreading it to others, you should wear a mask indoors in public if you are in an [area of substantial or high transmission](#) even if you are fully vaccinated.
- We don't know how effective the vaccines will be against new variants that may arise.



For Healthcare and Public Health

[Clinical and Professional Resources](#): Toolkits and resources for healthcare workers and public health professionals.

Related Pages

- › [When You've Been Fully Vaccinated](#)
- › [Myths and Facts about COVID-19 Vaccines](#)
- › [Frequently Asked Questions about COVID-19 Vaccination](#)
- › [Benefits of Getting a COVID-19 Vaccine](#)

Last Updated Oct. 7, 2021

By Standard Number 1904.35 - Employee involvement.

Part Number: 1904
Part Number Title: Recording and Reporting Occupational Injuries and Illnesses
Subpart: 1904 Subpart D
Subpart Title: Other OSHA Injury and Illness Recordkeeping Requirements
Standard Number: 1904.35
Title: Employee involvement.
GPO Source: e-CFR

1904.35(b)(1)(iv)

You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.

Filing Whistleblower Complaints under Section 11(c) of the OSH Act of 1970

Employees are protected from retaliation for raising workplace health and safety concerns and for reporting work-related injuries and illnesses.

Covered Employees

Section 11(c) of the *Occupational Safety and Health Act of 1970* (OSH Act) prohibits employers from retaliating against employees for exercising a variety of rights guaranteed under the OSH Act, such as filing a safety or health complaint with OSHA, raising a health and safety concern with their employers, participating in an OSHA inspection, or reporting a work-related injury or illness.

A covered employee is any employee of a person engaged in a business affecting interstate commerce, except employees of the United States, States, or political subdivisions of States.¹ However, employees of the United States Postal Service are also covered employees.

Protected Activity

A person may not discharge or in any manner retaliate against an employee because the employee:

Filed any complaint or instituted or caused to be instituted any proceeding under or related to the OSH Act.

Exercised any right afforded by the OSH Act. Examples include, but are not limited to:

- communicating orally or in writing with management personnel about occupational safety or health matters, including asking questions or expressing concerns, requesting safety data sheets, reporting a work-related injury or illness, or requesting copies of OSHA standards or regulations;

- filing a safety/health complaint with OSHA;
- or participating in an OSHA on-site inspection.

Unfavorable Employment Actions

A person taking an unfavorable employment action against an employee may be found to have violated Section 11(c) of the OSH Act if the employee would not have experienced the unfavorable employment action(s) but for their protected activity. Unfavorable employment actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failure to hire or rehire
- Intimidation
- Making threats
- Reassignment affecting prospects for promotion
- Reducing pay or hours

Deadline for Filing Complaints

Complaints must be filed within 30 days after the alleged unfavorable employment action occurs (that is, when the employee is notified of the retaliatory action).

Employees filing untimely retaliation complaints with OSHA may be referred to the National Labor Relations Board (NLRB) for possible further action.

How to File an 11(c) Complaint

An employee, or representative of an employee, who believes he or she has been retaliated against in violation of Section 11(c), may file a complaint with OSHA within 30 days of the unfavorable employment action (see above). Complaints may be filed verbally with OSHA

¹ Federal employees are protected from retaliation for occupational safety or health activity under procedures established by their agencies pursuant to Executive Order 12196. See 29 CFR 1960.46-47. They are also protected from retaliation for whistleblowing under the Whistleblower Protection Act. For more information visit www.osc.gov.

by visiting or calling the local OSHA office at 1-800- 321-OSHA (6742), or may be filed in writing by sending a written complaint to the closest OSHA regional or area office, or by filing a complaint online at www.whistleblowers.gov/complaint_page.html.

Written complaints may be filed by facsimile, electronic communication, hand delivery during normal business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

The date of the postmark, facsimile, electronic communication, telephone call, hand delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office is considered the date filed. No particular form is required and complaints may be submitted in any language.

To file a complaint electronically, please visit: www.whistleblowers.gov/complaint_page.html.

To contact OSHA to file a complaint, please call 1-800-321-OSHA (6742) and they will connect you to the closest office; or visit www.osha.gov/html/RAmap.html.

Upon receipt, OSHA will review the complaint to determine whether it is appropriate to conduct

a fact-finding investigation (e.g., whether the complaint was filed within 30 days; whether the allegation is covered by Section 11(c)). All complaints are investigated according to requirements in 29 CFR Part 1977.

In the 22 states with OSHA-approved state plans which cover the private sector, employees may file a complaint under Section 11(c) of the OSH Act or a complaint under the State's analogous whistleblower provision or both. The complaint with Federal OSHA must be filed within 30 days of the unfavorable employment action. The complaint filed with the State agency must be filed within the time limit prescribed by State law. State and local government employees in these States, and in six States with plans covering only State and local government employees, may only file occupational safety or health retaliation claims with the State agencies. For a list of state plans, please visit: www.osha.gov/dcsp/osp.

What to do about a Dangerous Situation at Work

If workers believe working conditions are unsafe or unhealthful, it is recommended that they bring the conditions to their employer's attention, if possible, and before they are faced with either refusing to perform a task or exposing themselves to a serious hazard.

Workers may file a complaint with OSHA concerning a hazardous working condition at any time. For information on occupational safety and health laws, standards, and regulations, visit OSHA's website: www.osha.gov.

Not all work refusals due to unsafe or unhealthful conditions are protected by section 11(c). A worker would be protected from subsequent retaliation when the worker has a reasonable apprehension of death or serious injury; and refuses in good faith to perform the task; and has no alternative assignment; and there is insufficient time to have Federal or State OSHA conduct an inspection or where such an inspection has already taken place; and where possible the employee has sought from the employer but was unable to obtain correction of the dangerous condition. For more information: www.osha.gov/workers.

Results of the Investigation

If the evidence supports an employee's claim of retaliation and a voluntary settlement cannot be reached, the Secretary of Labor, through the Office of the Solicitor of Labor (SOL), may litigate the case in U.S. District Court. The Secretary may seek relief to make the employee whole, including:

- Reinstatement.
- Payment of back pay with interest.
- Compensation for expenses the employee may have incurred, as a result of the retaliation with interest; and for emotional distress.
- Punitive damages.
- Non-monetary relief.

If the OSHA Regional Administrator whose office investigated the case finds that the evidence does not support an employee's claim of retaliation, the employee may seek review by the Directorate of Whistleblower Protection

Programs (DWPP) in Washington, D.C. by filing a request for such review, within 15 days of the employee's receipt of the dismissal letter, with a copy to the Regional Administrator.

To Get Further Information

For a copy of Section 11(c) of the *Occupational Safety and Health Act* (29 U.S.C. §660(c)), the regulations (29 CFR 1977), and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Program enforces the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes which OSHA enforces, view our "Whistleblower Statutes Desk Aid" at www.whistleblowers.gov/whistleblower_acts-desk_reference.pdf. You can also call OSHA at 1-800-321-OSHA (6742) if you have questions or need more information.

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory-impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.



U.S. Department of Labor



18 U.S. Code § 1001 - Statements or entries generally

[U.S. Code](#) [Notes](#) [State Regulations](#)

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in [section 2331](#)), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

(June 25, 1948, ch. 645, [62 Stat. 749](#); [Pub. L. 103-322, title XXXIII, § 330016\(1\)\(L\)](#), Sept. 13, 1994, [108 Stat. 2147](#); [Pub. L. 104-292, § 2](#), Oct. 11,

1996, [110 Stat. 3459](#); [Pub. L. 108-458, title VI, § 6703\(a\)](#), Dec. 17, 2004, [118 Stat. 3766](#); [Pub. L. 109-248, title I, § 141\(c\)](#), July 27, 2006, [120 Stat. 603.](#))

OSH Act of 1970 / Penalties

SEC. 17. Penalties

(a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than \$70,000 for each violation, but not less than \$5,000 for each willful violation.

29 USC 666

Pub. L. 101-508 increased the civil penalties in subsections (a)-(d) & (i). See Historical notes.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to \$7,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$7,000 for each violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year, or by both.

Pub. L. 98-473 Maximum criminal fines are increased by the Sentencing Reform Act of 1984, 18 USC § 3551 et seq. See Historical notes.

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

See historical notes.

(g)

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(h)

(1) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health and Human Services to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

(2) Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

(i) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to \$7,000 for each violation.

(j) The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

UNITED STATES
DEPARTMENT OF LABOR

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FEDERAL GOVERNMENT

White House