

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS IN THE
COVID-19 VACCINATIONS, TESTING, AND FACE COVERINGS
EMERGENCY TEMPORARY STANDARD (29 CFR 1910.501, Subpart U)
OMB CONTROL NO. 1218-0278**

This is a new Information Collection Request (ICR) supporting OSHA’s Emergency Temporary Standard (ETS) providing COVID-19 workplace protections for employees of employers with 100 or more employees. The Department of Labor (DOL or the Department) requests initial clearance for these information collections under the emergency clearance procedures outlined in regulations [5 C.F.R.1320.13](#). This will allow the information collections to take effect at the same time as the rest of the ETS.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The main objective of the Occupational Safety and Health Act (OSH Act or Act) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” ([29 U.S.C. § 651\(b\)](#)). To achieve this objective, the OSH Act specifically authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. § 651(b)(9)). The Act further states that “[t]he Secretary . . . shall . . . prescribe such rules and regulations as [he/she] may deem necessary to carry out [his/her] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” ([29 U.S.C. § 657\(g\)\(2\)](#)).

In addition, the OSH Act requires the Occupational Safety and Health Administration (OSHA or the Agency) to issue an Emergency Temporary Standard (ETS) if OSHA determines that “employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards” and that an ETS is “necessary to protect employees from such danger” ([29 U.S.C. § 655\(c\)\(1\)](#)).

OSHA has determined that an ETS is necessary to protect workers from the grave danger posed by COVID-19 and is issuing an ETS that amends regulations at 29 CFR 1910 subpart U to apply COVID-19 protections to workers of employers with one hundred (100) or more employees.¹

¹ This provision applies to all employers with a total of one hundred (100) or more employees across all workplaces at any time this section is in effect, except it does not apply to workplaces covered under the Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors; or settings where any employee provides healthcare services or healthcare support services when subject to the requirements of 29 CFR 1910.502; to employees of covered employers who do not report to a workplace where other individuals, such as coworkers or customers, are present; while working from home; or who work exclusively outdoors. See § 1901.501(b).

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With respect to this Information Collection Request (ICR), section 1910.501 contains collections of information necessary to effectuate the purpose of the ETS. These information collections are applied by cross reference to other industries in regulations 29 CFR 1915.1501 (Shipyard Employment), 1917.31 (Marine Terminals), 1918.110 (Longshoring), 1926.58 (Construction), 1928.21 (Agriculture).²

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The COVID-19 Vaccination, Testing, and Face Coverings ETS contains the following collections of information:³

29 CFR § 1910.501—Vaccination, Testing and Face Coverings.

§ 1910.501(d)—Employer policy on vaccination.

Standard: (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 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.^{4, 5}

Purpose: The requirement documents the employer’s policy in order to allow consistent implementation and establish a record for how the employer intends to comply with the ETS.

² The ETS applies to agricultural establishments with eleven (11) or more employees engaged on any day in hand-labor occupations in the field and agricultural establishments that maintain a temporary labor camp, regardless of how many employees are engaged on any day in hand-labor occupations in the field. See § 1928.21.

³ While mentioned in this supporting statement as a matter of clarity, certain elements that might otherwise appear to be information collections are not subject to PRA clearance requirements. This supporting statement addresses each of those situations.

⁴ See § 1910.501(b) definition of “Mandatory Vaccination Policy.”

⁵ The regulatory provision notes nothing in this section precludes an employer from requiring employees to be fully vaccinated. Under Federal law, including the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, workers may be entitled to a reasonable accommodation or exception from their employer when the workers assert that they cannot be vaccinated and/or tested (which would include medical conditions), or because of a sincerely held religious belief, practice, or observance. For more information about evaluating requests for reasonable accommodation for a disability or sincerely held religious beliefs, employers can consult EEOC’s website: <https://www.eoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eo-laws>.

The requirement to develop and implement policies and procedures requiring employee vaccination or a combination of testing and masking is consistent with CDC guidelines. These practices are important and effective at lowering the risk of transmission of COVID-19.

§ 1910.501(e)(2), (e)(4)—Determination of employee vaccination status.

Standard: (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 healthcare 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 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.”

* * * * *

(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.

Purpose: The vaccination status provision results in a recordkeeping requirement. These provisions allow employers to determine and document which employees are subject to the COVID-19 testing and masking provisions specified in the ETS.

§ 1910.501(f)(1)&(2)—Employer support for employee vaccination.

Standard: (1) Time for vaccination. The employer must: (i) provide a reasonable amount of time to each employee for each of their 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.

Purpose: This provision implies the employer will develop a record to document compliance. This recordkeeping requirement will be used by employers and OSHA to document an employer’s compliance with the provision, should there be a question about whether the time was properly granted and compensated.

§ 1910.501(g)(1), (g)(4)—COVID-19 testing for employees who are not fully vaccinated.

Standard: (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.

* * * * *

(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.

Purpose: The testing provision results in a recordkeeping requirement. These provisions allow employers to determine and document which employees should be removed from the worksite because they have an active case of COVID-19.

§ 1910.501(h)(1)—Employee notification to employer of a positive COVID-19 test and removal.

Standard: [T]he 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[.]

Purpose: Employers will use this information to remove COVID-19 positive employees from the workplace and reduce the risk of workplace transmission.⁶

⁶ The employee must be 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

§ 1910.501(j)—Information provided to employees.

Standard: 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>; ⁷ (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 injuries or illness, or otherwise exercising any rights afforded by the OSH Act; and (4) the prohibitions of 18 U.S.C. § 1001 and Section 17(g) of the OSH Act, which provide for criminal penalties associated with knowingly supplying false statements or documentation.

Purpose: This third-party disclosure will be used by covered employees to understand their rights and obligations under the ETS and OSH Act.

healthcare provider. See § 1910.501(h).

⁷

The Agency associates no PRA burden for distributing “Key Things to Know About COVID-19 Vaccines,” as this is information originally provided by the Federal Government. See 5 CFR 1320.3(c).

§ 1910.501(k)(1)–(2)—Reporting COVID-19 fatalities and hospitalizations to OSHA.

Standard: (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).

Purpose: The requirement that employers report work-related COVID-19 fatalities and hospitalizations will assist OSHA in evaluating employer compliance with the ETS, thereby ensuring workers are receiving adequate protection. This information can also be used by employers, workers, and OSHA to monitor exposures, evaluate the effectiveness of the employer’s COVID-19 plan, and identify potential high-risk areas.

§ 1910.501(l)(1)–(3)—Availability of records.

Standard: (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 (l)(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.

Purpose: The availability of records to employees and their representatives are third-party disclosures under the PRA that help interested parties understand the level of effort and success the employer has utilized to comply with the ETS. Making records available to the Assistant Secretary through OSHA field staff during investigations falls outside the scope of the PRA; however, examining records helps the agency achieve compliance and hold employers who violate the ETS accountable.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce the burden.

For most paperwork requirements in the ETS, the Agency wrote the requirements in performance-oriented language, i.e., in terms of what data to collect, not how to record the data. So long as the records are maintained in a manner consistent with Federal and state privacy requirements and made available to employees, their representatives, and OSHA in accordance with the ETS's availability of records provisions, the employer may use improved information technology when establishing and maintaining the required records.

For the requirement that employers report work-related COVID-19 fatalities and hospitalization to OSHA, employers must follow the requirements in 29 CFR 1904.39. That provision allows employers to report to OSHA by telephone or by electronic submission using a reporting application located on OSHA's public Web site (Recordkeeping and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904), OMB Control No. 1218-0176).

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of the purposes described in Item 2 above.

The information collection requirements of the ETS are specific to each employer and worker involved, and no other source or agency duplicates these requirements or can make the required information available to OSHA or third-parties as required by the ETS. OSHA has exempted from compliance with this ETS all health care workers complying with § 1910.501, as well as Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors, to ensure that employers and workers would not face duplicative requirements.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

OSHA examined the impact of the provisions contained in this ETS on small entities as part of ongoing efforts to reduce burden while still obtaining the policy goals the OSH Act sets forth. In this regard, the ETS does not apply to employers employing fewer than one hundred (100) employees and normally excludes employees who do not report to a worksite with other employees. Exceptions to those scope limitations apply to agricultural employment and are addressed in Item 2, footnote 3, of this supporting statement.

OSHA developed the ETS so employers must use CDC materials ("Key Things to Know About COVID-19 Vaccines") for the requirement that the employer give employees information on

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COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated. This reduces the paperwork burden on respondents, as employers do not need to develop these materials on their own. In addition, as noted in footnote 9, information originally provided by the Federal Government is not considered to be a collection of information under the PRA. *See* 5 CFR 1320.3(c).

Finally, the ETS provides a temporary exception when an employee has received a positive COVID-19 test or has been diagnosed with COVID-19 by a licensed healthcare provider. More specifically, the employer must not require the employee to undergo COVID-19 testing as required under regulatory paragraph 1910.501(g)(1) for 90 days following the date of their positive test or diagnosis. *See* § 1910.501(g)(3).

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collection frequencies specified by the ETS are the minimum frequencies that the Agency believes are necessary to ensure that employers, employees, and OSHA can effectively achieve the purposes of the ETS, thereby helping to prevent serious illness or death resulting from hazardous occupational exposures to COVID-19.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies**

that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Under § 1910.501(k)(1), the employer must report to OSHA (1) each work-related COVID-19 fatality within 8 (eight) hours of the employer learning about the fatality; and (2) each work-related COVID-19 in-patient hospitalization within twenty-four (24) hours of the employer learning about the in-patient hospitalization. The transmissibility and life-threatening nature of COVID-19 requires a quick exchange of information to effectively mitigate potential disastrous outbreaks in the workplace.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

OSHA is requesting an emergency clearance for this information collection pursuant to regulations 5 CFR 1320.13. As such, OSHA requests OMB waive its normal clearance procedures for this ETS, including the Federal Register Notice requirements in 5 CFR 1320.8(d), as this collection of information is essential to OSHA's mission to protect the health and safety of workers affected by the COVID-19 pandemic. Many employees are likely to die, and others may be seriously harmed, if this ETS is not issued in an expeditious manner. Although OSHA is requesting that OMB approve the information collections in this ICR on an emergency basis and assign them an OMB control number, OSHA is soliciting comments on this ICR for a period of sixty (60) days following publication of the ETS.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

The Agency will not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The ETS does not provide any assurance of confidentiality for records OSHA receives under the ETS. With regard to records of employee vaccination status and employee test results, the ETS contains provisions to protect employee privacy. The ETS states, “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.” In addition, OSHA has developed and implemented 29 CFR 1913.10 (“Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records”) to regulate access to employee medical records.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Perceived questions of a sensitive nature may include information around vaccination status and whether an employee has contracted COVID-19. This information is needed to document and prevent the grave danger posed by COVID-19 exposures in the workplace.

12. Provide estimates of the hour burden of the collection of information. The statement should:

Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized costs to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

RESPONDENT BURDEN-HOUR AND COST BURDEN DETERMINATIONS

General note on time and other cost burden estimates: OSHA has, in accordance with regulations [5 C.F.R. 1320.3\(b\)\(2\)](#), excluded the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records) from the burden estimates discussed in items 12, 13, and 14 of this supporting statement. In addition, OSHA has excluded additional burdens where a person or employer opted to pursue a more expensive option for their own purposes or already is in compliance with the requirements and needs to take no specific action. These situations are discussed in each element.

OSHA bases the burden estimates in this ICR on the assumption employers are the respondents in all cases, even though some information is provided by individual workers. In this regard, when they provide information to their employers the workers are acting in their capacity as employees and not private individuals. The regulations implementing the PRA at 5 CFR 1320.3(c)(4) in relevant part provide that, “persons” does not include employees of the respondent acting within the scope of their employment. This determination does not affect either the time or other cost burden totals.

In the 1,858,935 covered establishments with a 100 or more employees, OSHA estimates there are a total 84,194,885 covered employees affected by the standard.⁸

For the sole purpose of calculating burden hours and costs under the Paperwork Reduction Act, this supporting statement has rounded the totals found in Table F, the “Summary of Burden Hours and Cost Under Item 12 of this Supporting Statement.”

⁸ Source: Vaccination and Testing ETS Cost & Impacts 501_502, Economic Impact Analysis Spreadsheets under tab Report Tables_Profile.

Wage Rates

OSHA used occupation-specific wage rates from Bureau of Labor Statistics (BLS) 2018 Occupational Employment Statistics data (BLS, 2019). The estimated loaded wage rates are calculated using industry-specific fringe benefit rates for all civilian workers as reported in the BLS 2018 Employer Costs for Employee Compensation data, as well as OSHA’s standard estimate for overhead of seventeen (17) percent times the base wage (BLS, 2018) to arrive at the loaded wage rate.

Table A is a summary of the how the wage rate estimates were derived for the information collection requirements specified by the Standard.

Table A – Estimated Wage Rates

Occupation	SOC	Mean Hourly Rate	Fringe Benefits	Overhead Loading	Wage Rate
General Worker ⁹	-----	\$21.61	0.70	0.17	\$35.60
General and Operation (GO) Manager	11-1020	\$53.58	0.70	0.17	\$88.16
Information and Records (IR) Clerk	43-4000	\$21.47	0.70	0.17	\$36.94

§ 1910.501 Vaccination, Testing, and Face Coverings.

1. Employers’ written policies on vaccination.

§ 1910.501(d)—Employer policy on vaccination.

OSHA estimates 1,858,935 covered employers with one hundred (100) or more employees will need to establish written procedures and policies on how to mandate the vaccines or testing for their unvaccinated employees who are working on site with other employees. OSHA assumes that a GO manager will labor an average of five (5) hours to write and implement these procedures and policies making \$88.16 an hour.

Burden hours: 1,858,935.00 employers x 5.00 hours = 9,294,675.00 hours

Cost: 9,294,675.00 hours x \$88.16 (GO manager) = \$819,418,548.00

2. Determination of employee vaccination status.

⁹ This wage rate is a weighted average of all employees across all industries. Source: Occupational Exposure to COVID-19 ETS Economic Analysis Spreadsheets, under the “Labor Wage” tab.

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§ 1910.501(e)(2)—Employee submission of vaccine status documentation.

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 immunization records, COVID-19 Vaccination Record card, or medical records documenting the vaccination. If the employee is unable to produce proof of vaccination, the employee must sign and date a statement attesting to their vaccination status, which includes a statement of 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.”

The Agency estimates that of the 84,194,885 covered employees, sixty (60) percent work for employers that have already required the employee to provide their vaccination status. Thus, forty (40) percent of covered employees will need to provide their vaccination status to their employer. The Agency estimates that 33,677,954 employees will need to show proof of vaccination once the ETS takes effect ($84,194,885 \times 0.40 = 33,677,954$).

OSHA expects a general worker making \$35.60 an hour will need about fifteen (15) minutes (0.25 hours) to provide the necessary information on their vaccination status. OSHA does not believe the method of proof (e.g., CDC card, affidavit) will materially affect the time burden.

Burden hours: $33,677,954.00 \text{ responses} \times 0.25 \text{ hours} = 8,419,488.50 \text{ hours}$

Cost: $8,419,488.50 \text{ hours} \times \$35.60 \text{ (general worker)} = \$299,733,791.00$

§ 1910.501(e)(4)—Employer recording and maintaining vaccination records.

OSHA is assuming an IR clerk making \$36.94 an hour will take five (5) minutes (0.08 hours) to record and maintain each employee’s vaccination status.

Burden hours: $33,677,954.00 \text{ responses} \times 0.08 \text{ hours} = 2,694,236.32 \text{ hours}$

Cost: $2,694,236.32 \text{ hours} \times \$36.94 \text{ (IR clerk)} = \$99,525,089.70$

3. Employer support for employee vaccination.

§ 1910.501(f)(1)—Time for vaccination.

There are a total of 22,751,767 employees who will get vaccinated. OSHA estimates 15.3 percent (3,481,020.35 employees) will receive the vaccine on-site and the other 84.7 percentage (19,270,746.65 employees) will receive the vaccine off-site. Employees will take an average of 15 minutes of travel time (each way); 5 minutes to wait, do paperwork, and receive the shot; and 20 minutes for the post-shot wait period. For those employees who receive vaccinations at their workplace (“on-site vaccinations”), OSHA does not include travel time in its calculations.¹⁰

a. On-site Vaccinations

Of the 3,481,020.35 employees that will receive vaccinations on-site, OSHA estimates that five (5) percent (174,051.02 employees) will choose the Johnson & Johnson vaccine and ninety-five (95) percent (3,306,969.33 employees) will choose the Moderna or Pfizer vaccine. Employees receiving Johnson & Johnson will get one dose and the employees receiving Moderna or Pfizer will get two doses. A general worker making \$35.60 an hour will take twenty-five (25) minutes (0.42 hours) to get vaccinated for each dose.

Table B—Time for Vaccinations (on-site)

Type of Vaccination	Number of Responses	Time-off for Vaccine	Burden Hours	Wage Rate	Cost
Johnson & Johnson	174,051.02	0.42 hrs. (25 mins.)	73,101.43	\$35.60	\$2,602,410.91
Moderna / Pfizer	3,306,969.33	0.83 hrs. (50 mins.)	2,744,784.54	\$35.60	\$97,714,329.62
Total	3,481,020.35		2,817,885.97		\$100,316,740.53

b. Off-site Vaccinations

Of the 19,270,746.65 employees who get vaccinated off-site, OSHA estimates that five (5) percent (963,537.33 employees) of the off-site employees will choose the Johnson & Johnson vaccine and ninety-five (95) percent (18,307,209.32 employees) will choose the Moderna or Pfizer vaccine. Employees receiving Johnson & Johnson will get only one dose and the employees receiving Moderna or Pfizer will get two doses. A general worker making \$35.60 an hour will take 55 minutes (0.92 hours) to get a vaccination off-site for each dose.

Table C—Time for Vaccinations (off-site)

¹⁰ The travel and vaccination times are from the ETS’s Preamble and Economic Analysis Spreadsheet.

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Type of Vaccination	Number of Responses	Time-off for Vaccine	Burden Hours	Wage Rate	Cost
Johnson & Johnson	963,537.33	0.92 hrs. (55 mins.)	886,454.34	\$35.60	\$31,557,774.50
Moderna / Pfizer	18,307,209 .32	1.83 hrs. (110 mins.)	33,502,193.06	\$35.60	\$1,192,678,072.94
Total	19,270,746 .65		34,388,647.40		\$1,224,235,847.44

The Agency associates no additional time burden to an IR clerk to enter the vaccination into the employer’s records. This time is accounted for in the vaccination status recordkeeping previously discussed.

§ 1910.501(f)(2)—Time off for recovery.

The Agency assumes 4.9 percent of the 1,137,588 employees (1,137,588 employees x 0.049 = 55,741.81 responses) administered the single dose Johnson & Johnson vaccine, and 12.2 percent the 21,614,179 employees (21,614,179 x 0.122 = 2,636,929.84 responses) administered the two dose Moderna or Pfizer vaccine will need recovery time off from work. An IR clerk making \$36.94 an hour will need five minutes (0.08 hours) to record the amount of time each employee is taking for recovery.

Table D—Recording the Time-off for Recovery

Type of Vaccination	Number of Responses	Recording the Time-off for recovery	Burden hours	Wage Rate	Cost
Johnson & Johnson	55,741.81	0.08 hours	4,459.34	\$36.94	\$164,728.02
Moderna / Pfizer	2,636,929.84	0.08 hours	210,954.39	\$36.94	\$7,792,655.17
Total	2,692,671.65		215,413.73		\$7,957,383.19

4. COVID-19 testing for employees who are not fully vaccinated.

§ 1910.501(g)(1)—Employee weekly testing.

Consistent with the feasibility analysis, OSHA has excluded burdens when employees opt to forego vaccination at no cost to the worker and pursue a more expensive option (testing) for their own purposes. OSHA has accounted for the cost of providing proof of vaccination for these workers.

As noted in the Alternative Accommodation Cost analysis of accommodation costs attributable to the ADA or other non-OSHA laws, some employees may receive an exemption or reasonable accommodation from vaccination. For the purposes of this analysis, OSHA treats those employees as if they do not have the option to get vaccinated. As such, OSHA focuses exclusively on the testing for the 3.9 percent (3,270,971 employees) of unvaccinated employees that OSHA estimates will not be vaccinated because of reasonable accommodations or medical contraindications.

OSHA estimates that there are a total of 3,270,971 of these employees who will need to be tested for COVID-19 at least once every (seven) 7 days, and that employers will assume the cost for these tests. For the reasons explained in OSHA's Alternative Accommodation Cost analysis, OSHA also assumes that 58.9 percent of those employees will choose to test on-site and the remaining 41.1% of employees will choose to be tested at off-site laboratories or other appropriate facilities.

a. On-site testing

For on-site testing, the agency assumes that the test (e.g. swabbing the nose) itself takes (thirty) 30 seconds, plus thirty (30) seconds (.008 of an hour) per employee and six (6) seconds (.0002 of an hour) per manager for the test to be monitored, based on the assumption that a manager monitors five (5) employees at a time. In addition, the agency assumes each employee will need to wait five (5) minutes for the manager to begin proctoring the test. It is not necessary for OSHA to account for the time it takes to process the test result (i.e., to get the test result), as an over-the-counter test can be self-administered and left in a secure place after proctoring, and this burden is accounted for in the operational costs discussed in Item 13 of this supporting statement. There are other on-site possibilities an employer may explore (see *Costs Associated with Reasonable Accommodation: Testing, Face Coverings, and Determinations, Section IV Feasibility.*) The time to read the test result (either by the employer or the employee) is accounted for in this supporting statement under the burden for recording the results under § 1910.501(g)(4). OSHA therefore calculates a total amount of time required for on-site testing as five (5) minutes and thirty (30) seconds per employee, and six (6) seconds per manager.

OSHA estimates the employer will test each employee an average of sixteen (16) times during the 6-month period that OSHA assumes, for analytical purposes, the ETS will remain in effect

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(the testing requirement will not take effect until after employees have received an opportunity to demonstrate they are vaccinated).¹¹

Of those 3,270,971 employees who need to be tested, OSHA estimates 58.9 percent (1,926,601.92 employees) will be tested on-site. OSHA estimates that employees making on average \$35.60 an hour will be tested sixteen (16) times.

Burden hours: 1,926,601.92 employees tested x 16.00 tests x 0.092 hours =
2,835,958.02 hours

Cost: 2,835,958.02 hours x \$35.60 (General worker) = \$100,960,106.00

b. Off-site testing

For off-site tests, the Agency assumes, on average, a travel time of (fifteen) 15 minutes each way (for a total of (thirty) 30 minutes), and (five) 5 minutes of wait and administration time, for a total of thirty-five (35) minutes (0.58 hours). OSHA's estimate is an upper bound limit and would be reduced by the number of home-collected tests that do not require travel to a testing site or wait time at the site. The Agency has no available information to discount the burden and, therefore, claims the upper limit.

Of those 3,270,971 employees who need to be tested, OSHA estimates 41.1 percent (1,344,369.08 employees) will be tested off-site. OSHA estimates that employees making on average \$35.60 an hour will be tested sixteen (16) times.

Burden hours: 1,344,369.08 employees tested x 16.00 tests x 0.58 hours =
12,475,745.06 hours

Cost: 12,475,745.06 hours x \$35.60 (General worker) = \$444,136,524.14

§ 1910.501(g)(4)—Employers recording and maintaining the test

OSHA estimates that employers must record and maintain records for all 3,270,971 employees tested. The agency is assuming an IR clerk making \$36.94 an hour will take five (5) minutes (0.08 hours) to record and maintain each of these employee's test results.

¹¹ Source: OSHA's ETS Cost & Impacts Spread, under the variables tab.

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Burden hours: 3,270,971.00 employees test results x 16.00 times x 0.08 hours =
4,186,842.88 hours

Cost: 4,186,842.88 hours x \$36.94 (IR clerk) = \$154,661,975.99

5. Employee notification to employer of COVID-19 positive status and removal.

§ 1910.501(h)(1)

Because unvaccinated employees will be tested weekly as a result of § 1910.501(g), any positive test notifications that occur as a result of that testing is already captured in that section's analysis. Thus, this section only captures when vaccinated, covered employees notify their employer of their COVID-19 positive status. The Agency estimates that 52,510,781 covered employees were vaccinated prior to the implementation of the ETS, and 22,751,767 will be vaccinated as a result of the ETS, for a total number of 75,262,548 total covered, vaccinated employees. OSHA estimates that 0.1 percent¹² of the 75,262,548 employees will need to inform their employer of a breakthrough COVID-19 positive status. (75,262,548 covered vaccinated employees x 0.001 = 75,262.55) OSHA assumes that it will take (three) 3 minutes (0.05 hours) for an employee to notify the GO manager of their positive COVID-19 status.

a. Employee notifying employer.

Burden hours: 75,263 positive employees x 0.05 hours = 3,763.15 hours

Cost: 3,763.15hours x \$35.60 (General worker) = \$133,968.14

b. Employer receiving notification.

Burden hours: 75,263 positive employees x 0.05 hours = 3,763.15hours

Cost: 3,763.15hours x \$88.16 (GO manager) = \$133,968.14

6. Information provided to employees.

§ 1910.501(j)

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.

¹² This assumes a 90 percent vaccine effectiveness rate

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a. Familiarization with the rule.

OSHA estimates that it will take employers one (1) hour to familiarize themselves with the rule. For purposes of this analysis, OSHA assumes all the substantive provisions of the ETS must be understood in order to comply with the information collection provisions. The Agency further assumes that it will take one (1) hour for a general operation manager, making \$88.16 an hour, to get familiar with the rule.

Burden hours: 1,858,935 employers x 1 hours = 1,858,935 hours

Cost: 1,858,935 hours x \$88.16 (GO manager) = \$163,883,710

b. Communicating the rule.

For purposes of this analysis, OSHA assumes that 1,858,935 employers will communicate the required information once familiarized with the rule. The agency estimates that a GO manager, making \$88.16 an hour, will take ten (10) minutes (0.17 hours) to perform this task. OSHA also expects employers to use mass communication techniques, such as email alerts sent to all employees and all-staff meetings, so that a single action can notify all workers.

Burden hours: 1,858,935 employers x 0.17 hours = 316,018.95 hours

Cost: 316,018.95 hours x \$88.16 (GO manager) = \$27,860,230.60

The Agency associates no PRA burden for distributing “Key Things to Know About COVID-19 Vaccines,” as this is information originally provided by the Federal Government. See 5 CFR 1320.3(c).

7. Reporting COVID-19 fatalities and hospitalizations to OSHA.¹³

§ 1910.501(k)(1)&(2)

a. Reporting hospitalizations.

OSHA estimates that it takes forty-five (45) minutes (0.75 hours) of a GO manager’s time, making \$88.16 an hour, to report the number of in-patient hospitalization cases to OSHA. OSHA estimates that 59,570 cases of hospitalization will be reported.

Burden hours: 59,570.00 cases x 0.75 hours = 44,677.50 hours

¹³ The number of in-patient hospitalizations is 59,570 and the number of fatalities is 1,464 is from OSHA’s Economic Analysis ETS spreadsheets of the economic analysis under the variables tab. (Vaccination and Testing ETS Cost & Impacts_501_502,xlx). This calculation is based on the 19 month alternate scenario in the Health Impact Analysis and represents an overestimate.

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Cost: 44,677.50 hours x \$88.16 (GO manager) = \$3,938,768.40

b. Reporting fatalities.

OSHA estimates that it takes forty-five (45) minutes (0.75 hours) of a GO manager's time, making \$88.16 an hour, to report the number of fatality cases to OSHA. OSHA estimates that 1,464 fatality cases will be reported to OSHA.

Burden hours: 1,464.00 cases x 0.75 hours = 1,098.00 hours

Cost: 1,098.00 hours x \$88.16 (GO manager) = \$96,799.68

8. Availability of records.

§ 1910.501(l)(1)&(2).

OSHA estimates it will take five (5) minutes (0.08 hours) of an IR clerk's time to make the COVID-19 vaccine documentation, test result, plan, and/or the aggregate number of fully vaccinated employees available to an employee or their representative. OSHA estimates that approximately 2.5 percent of covered workers (2,104,872.13 employees) will request access to these records.

Burden hours: 2,104,872.13 employees x 0.08 hours = 168,389.77 hours

Cost: 168,389.77 hours x \$36.94 (IR clerk) = \$6,220,318.12

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Table F—Summary of the Burden Hours and Cost under Item 12 of this Supporting Statement.

Collection of Information	Type of response	Respondents	Response per respondent	Total responses	Time per response	Burden hours	Wage rate	Cost
1	Employer policy on vaccination							
§ 1910.501(d)	Establishments - Written policy	1,858,935	1	1,858,935	5.00	9,294,675.00	\$88.16	\$819,418,548.00
2	Determination of employee vaccination status							
§ 1910.501(e)(2)	Employees - Submission of vaccination status	1,858,935	18.1168002	33,677,954	0.25	8,419,488.50	\$35.60	\$299,733,790.60
§ 1910.501(e)(4)	Employees - Recorded	1,858,935	18.1168002	33,677,954	0.08	2,694,236.32	\$36.94	\$99,525,089.66
3	Employer support for employee vaccination							
§ 1910.501(f)(1)	Employees - Time for vaccinations (J&J) on-site	1,858,935	0.09362942	174,051	0.42	73,101.42	\$35.60	\$2,602,410.55
§ 1910.501(f)(1)	Employees - Time for vaccinations (Moderna/Pfizer) on-site	1,858,935	1.77895892	3,306,969	0.83	2,744,784.27	\$35.60	\$97,714,320.01
§ 1910.501(f)(1)	Employees - Time for vaccinations (J&J) off-site	1,858,935	0.51832743	963,537	0.92	886,454.04	\$35.60	\$31,557,763.82
§ 1910.501(f)(1)	Employees - Time for vaccinations	1,858,935	9.8482249	18,307,210	1.83	33,502,194.30	\$35.60	\$1,192,678,117.08

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Collection of Information	Type of response	Respondents	Response per respondent	Total responses	Time per response	Burden hours	Wage rate	Cost
	(Moderna/Pfizer) off-site							
§ 1910.501(f)(2)	Employees - Recording time off for recovery (J&J)	1,858,935	0.02998599	55,742	0.08	4,459.36	\$36.94	\$164,728.76
§ 1910.501(f)(2)	Employees - Recording time for recovery (Moderna/Pfizer)	1,858,935	1.41851652	2,636,930	0.08	210,954.40	\$36.94	\$7,792,655.54
4	COVID-19 testing for employees who are not fully vaccinated.							
§ 1910.501(g)(1)	Employees - Weekly Testing on site	1,858,935	16.5824152	30,825,632	0.09	2,835,958.14	\$35.60	\$100,960,109.93
§ 1910.501(g)(1)	Employees - Weekly Testing off site	1,858,935	11.5710899	21,509,904	0.01	12,475,744.32	\$35.60	\$444,136,497.79
§ 1910.501(g)(4)	Employees - Recorded	1,858,935	28.15350551	52,335,536	0.08	4,186,842.88	\$36.94	\$154,661,975.99
5	Employee notification to employer of COVID-19 positive status and removal.							
§ 1910.501(h)(1)	Employees - Notifying of Positive status	1,858,935	0.0130919	75,263	0.05	3,763.15	\$35.60	\$133,968.14
§ 1910.501(h)(1)	Employers - Receiving the information	1,858,935	0.0130919	75,263	0.05	3,763.15	\$88.16	\$331,759.30
6	Information provided to employees.							
§ 1910.501(j)(1)		1,858,935	1	1,858,935	1.00	1,858,935.00	\$88.16	\$163,883,709.60

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Collection of Information	Type of response	Respondents	Response per respondent	Total responses	Time per response	Burden hours	Wage rate	Cost
	Familiarization w/ rule							
§ 1910.501(j)(1)	Communicating the rule	1,858,935	1	1,858,935	0.17	316,018.95	\$88.16	\$27,860,230.63
7	Reporting COVID-19 fatalities and hospitalizations to OSHA.							
§ 1910.501(k)(1)&(2)	Employees Hospitalization cases	1,858,935	0.03204523	59,570	0.75	44,677.50	\$88.16	\$3,938,768.40
	Employees Fatality cases	1,858,935	0.00078755	1,464	0.75	1,098.00	\$88.16	\$96,799.68
8	Availability of records.							
§ 1910.501(l)(1)&(2)	Employees - Access to records	1,858,935	0.03273003	2,104,872	0.08	168,389.76	\$36.94	\$6,220,317.73
Total				205,364,655		79,725,536.63		\$3,453,411,496.07

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life on capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Testing

As with the burdens and costs for COVID-19 testing identified under Item 12, OSHA is accounting only for testing provided to employees who have received a reasonable accommodation, or exemption for medical contraindication, from vaccination. Other employees would not incur any Item 13 costs if they chose to be vaccinated.

In calculating the costs, OSHA again assumes that 58.9 percent of the establishments will perform the test on site and the remaining 41.1 percent of employees will have the test performed off-site at a laboratory or other appropriate facility.

For on-site testing, OSHA estimates a cost of \$10 per test for an over-the-counter (OTC) test. OSHA's per-test cost is based on the market prices OSHA found for an OTC test.¹⁴ For off-site tests, the agency assumes a cost of \$50 per test, which includes the cost for the laboratory to

¹⁴ Based on pricing shown on websites Amazon, and article (Norman, September 21, 2021) accessed 10/5/2021.

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evaluate the test. OSHA's per-test cost is based on the market prices OSHA found for tests that are processed by a laboratory. Costs for these tests vary widely, but OSHA judges that a reasonable estimate is \$50.¹⁵

OSHA assumes OSHA again estimates that each of the covered, unvaccinated employees will take at least of 16 tests on average during a 6-month period.

On-site: 1,926,602 employees x 16 test x \$10.00 = \$308,256,320

Off-site: 1,344,369 employees x 16 x \$50 = \$1,075,495,200

Total cost for testing = \$1,383,751,520

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

There is no cost to the Federal government.

15. Explain the reasons for any program changes or adjustments.

This is a new information collection request.

16. This is a new information collection request. For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no tabulating, statistical, tabulating analysis, or publication plans for the collections of information

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OSHA will display, as applicable, the expiration dates for the information collections covered by this request.

¹⁵ See (Malin, August 2, 2021) for a range of lab test costs, with a minimum of \$40.

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18. Explain each exception to the certification statement.

OSHA is not requesting an exception to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This ICR does not seek approval for any collection of information requirements employing statistical methods.