



AGC

THE CONSTRUCTION
ASSOCIATION

Preparing for the OSHA COVID-19 Vaccine Testing
Mandate Webinar Series

November 8, 2021

Leveraging Outside Solutions to Meet the Mandate

Thank You to Our Sponsor



THE CONSTRUCTION ADVOCACY FUND

ConstructionAdvocacyFund.agc.org

PANELISTS



- **Kevin Cannon**, Senior Director, Safety & Health Services, AGC of America
- **John Constantine**, CEO, ARCPoint Franchise Group
- **Reid Rubinstein**, CEO, Field Control Analytics
- **Lisa Howlett**, General Counsel, Hunter Roberts Construction Group

AGC VACCINATION BACKGROUND



- AGC has advocated for voluntary vaccinations
- Aligns with our safe workplaces strategies
- COVID vaccination toolkit on our website to assist members in discussing issue with employees
- Webinars with law firm explaining limitations on employer mandates/bargaining requirements
- Recognition that mandating vaccination may lead to widespread resignations in industry/balance with safe workplace responsibilities

OSHA VACCINE AND TESTING MANDATE FOR ALL EMPLOYERS WITH 100 OR MORE EMPLOYEES



- Nov. 5 OSHA issued [Emergency Temporary Standard](#)
 - December 6, 2021 for requirements other than testing for those who are not fully vaccinated
 - January 4, 2022 for testing of employees who have not received all doses required for vaccination.
- Will require vaccination **OR** regular testing for employees
- Will require employers to provide paid time off to get vaccinated or recover from any adverse effects
- This is really a **TESTING MANDATE**
- AGC advocating for truly temporary ETS. The need for such a testing mandate will diminish as vaccination rates increase and/or herd immunity is achieved.

CURRENT STATUS OF OSHA VACCINE AND TESTING MANDATE AND WHAT LIES AHEAD



- U.S. Court of Appeals for the Fifth Circuit in Louisiana issued a stay on Saturday
- Business and religious groups, advocacy organizations and several states, including Louisiana and Texas, filed a petition on Friday with the court
- Attorneys general in 11 states also filed a lawsuit on Friday
- Arguments focus on the purpose of the OSH Act which is protecting workplace safety and not addressing public health emergencies
- Currently, it is unclear what impact with will ultimately have on the ETS
- AGC is monitoring the situation and exploring options/opportunities to engage in similar efforts.

Introduction to ARCpoint

- National Third-Party Provider/ Administrator
 - Diagnostic Testing
 - Employment/Background Checks
 - Corporate Wellness Programs
 - Occupational Health, Clinical Services
- Certifications & Affiliations
 - CLIA
 - 49CFR
 - DATIA
 - SAPAA
- 125 Locations; National Presence

COVID-19 Experience

- Early Entry in COVID-19 Testing and Vaccination
 - April 2020
 - Individual and Businesses Clients
 - Experience Across Many Industries, Including Contracting, Construction
 - Serve Thousands of Clients; Administered Hundreds of Thousands of Tests
- Customized Solutions
 - In Lab & On-Site Concierge Services, 24 X 7
 - Individual Testing, Event Testing, Random Testing, Surveillance Testing
 - Variety of Testing Options

Proven Results

- We Keep Businesses Moving Forward and Let Them Focus On What Matters
- Example:
 - Company has productivity challenge due to COVID-19 or is mandated to vaccinate/test
 - Create a customized vaccination, surveillance testing, reporting program
 - Vaccinations provided in lab, at offices, on job sites
 - Weekly testing and/or periodic random covid Antigen testing also conducted in lab, at offices, on job sites
 - Targeted testing symptomatic employees
 - Outbreaks minimized or completely stopped due to surveillance testing program
 - Productivity increased

Tests

Test	Advantages	Challenges
Antibody Tests	<ul style="list-style-type: none"> Look for Antibodies Some Specific to Past Infection Others Better at Picking Up Antibodies from Vaccines 	<ul style="list-style-type: none"> DOES NOT Satisfy OSHA ETS Mandate Requirements
Antigen (Lab/Prescription)	<ul style="list-style-type: none"> Fast Results: 10-15 min Less Expensive Than PCR Easy to Administer 	<ul style="list-style-type: none"> Higher Risk of False Negatives (esp. if asymptomatic) Not as Universally Accepted Requires CLIA Waiver to Administer
Antigen (Home Kits/OTC)	<ul style="list-style-type: none"> Antigen Advantages Above Can Procure Independently Does Not Require CLIA Waiver Employee Can Self Administer 	<ul style="list-style-type: none"> Antigen Challenges Above Potential Supply Chain Challenges Cannot be Self Administered and Self Read – Requires Authorized Proctor
PCR	<ul style="list-style-type: none"> Gold Standard for Viral Testing Widely Accepted Greater Accuracy 	<ul style="list-style-type: none"> Results Take Longer: 1 Hour to 72 hours depending on method Requires Equipment to Process Most Expensive Option
Pooled Testing	<ul style="list-style-type: none"> Efficient Option for Large, Low Risk Groups Presumes Negative Results Batches Initial Sample 	<ul style="list-style-type: none"> Results Take Longer: 1-5 days depending on the lab backlog and reflex process Individual Tests Required if Batch is Positive Costs More Than Antigen, Less Than PCR Testing

OSHA ETS Testing Requirements

- Tests Must Be:
 - Screening for SARS-CoV-2
 - Cleared, Approved or Authorized via an EUA by the FDA (a viral test)
 - Administered in accordance with Authorized Instructions
 - Cannot be Both Self-Administered and Self-Read Unless Observed by Employer or Authorized Proctor
 - Home/OTC Antigen Kits Do Not Require CLIA Waiver or Prescription
 - Lab/Prescription/Standard Antigen Tests Require a CLIA waiver
 - PCR Tests Require a Prescription/Medical Oversight
- Authorized Proctors Include:
 - Licensed Healthcare Providers
 - Point-of-Care Test Providers
 - TeleHealth Providers

Partnership Benefits

- Customized Solutions
 - Right Test at the Right Time, in the Right Place
 - Right Program at the Right Budget
 - Unbiased, Non-Discriminatory, Purpose-Driven
- Proven Expertise
 - Professionally-Trained Collection and Diagnostics
 - Appropriately Certified and Compliant (CLIA, HIPAA)
 - Medical Review, Support, Testimony as Needed
- Worry Free
 - Procurement, Supply Chain Management
 - Documentation, Record-Keeping, Reporting, Communication
 - You Focus On Your Business; We've Got it Covered!

Helpful Links

- **OSHA ETSA Home Page:** <https://www.osha.gov/coronavirus/ets>
- **OSHA Webinar:** <https://www.youtube.com/watch?v=ixxkn3Y8z6g>
- **OSHA FAQ:** <https://www.osha.gov/coronavirus/ets2/faqs>
- **Link to State Plans:** <https://www.osha.gov/stateplans/>
- **Registration for ARCpoint Webinar and/or White Paper:**
(features medical, testing, legal experts)





Field
Control
Analytics

COVID-19 VAX Tracker

COVID-19 VAX Tracker presented by FCA

- Fast, reliable and efficient way to enter, keep and track all the vaccination data of your employees in one place
- Track vaccination status, type, date and expiration date
- Booster notifications based on vaccination type
- Accessible using web-app via any device
- On demand reports
- Role/permission configurations



Covid VAX Tracker

[Covid Tracking](#)[Reports](#)[Admin](#)[Superuser](#)[Import](#)[Logout](#)Rubenstein, Reid

Total Records: 9478

Page Size: Filter:

Page 1 of 948

	Last Name	First Name	EEID	Unique Identifier	BU	Profit Center	Is Fully Vaccinated	Vaccine Type	Attestation	Exemption Status
<input type="checkbox"/>	Summers	James	758560	Summers0409	New York City	200568	No			
<input type="checkbox"/>	Jones	Derek	712689	Jones0308	New York City	200568	No			
<input type="checkbox"/>	Gibson	Leslie	712644	Gibson1108	Charlotte	201417	No			
<input type="checkbox"/>	Lawrence	Sean	736582	Lawrence0103	New York City	200568	No			
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<input type="checkbox"/>	Lopez	Mathew	703409	Lopez0131	Dallas	205213	No			
<input type="checkbox"/>	Mason	Neal	112456	Mason0312	Dallas	205213	No			
<input type="checkbox"/>	Griffin	David	122547	Griffin0722	Dallas	205213	No			
<input type="checkbox"/>	Jonson	Sam	620458	Jonson0924	Charlotte	201417	No			
<input type="checkbox"/>	Smith	Andrew	356987	Smith0111	New York City	200568	No			



Covid VAX Tracker



Rubenstein, Reid

Language *

Employee ID:

Unique Identifier (last name + birth month and day) *

First Name *

Last Name *

Middle Initial:





Covid VAX Tracker

Covid Tracking

Reports

Admin

Superuser

Import

Logout



Rubenstein, Reid

Cell Phone:

Business Unit *

Profit Center *

I have received my vaccination:

I am unvaccinated and plan to get vaccinated in the future:

I am unvaccinated and do not plan to get vaccinated in the future:

I am unvaccinated and plan to request a medical or religious exemption:

Save

Clear

Back

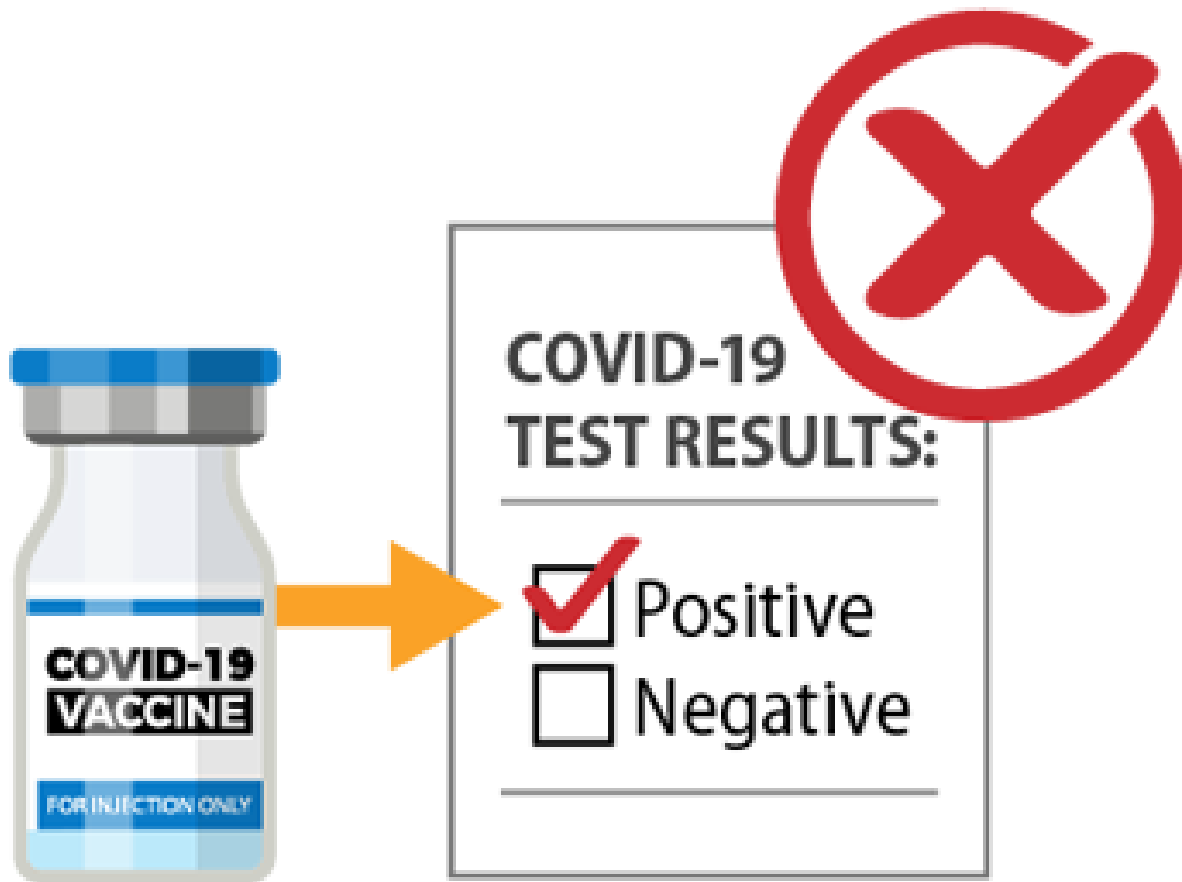
Delete





**Field
Control
Analytics**

Thank You.

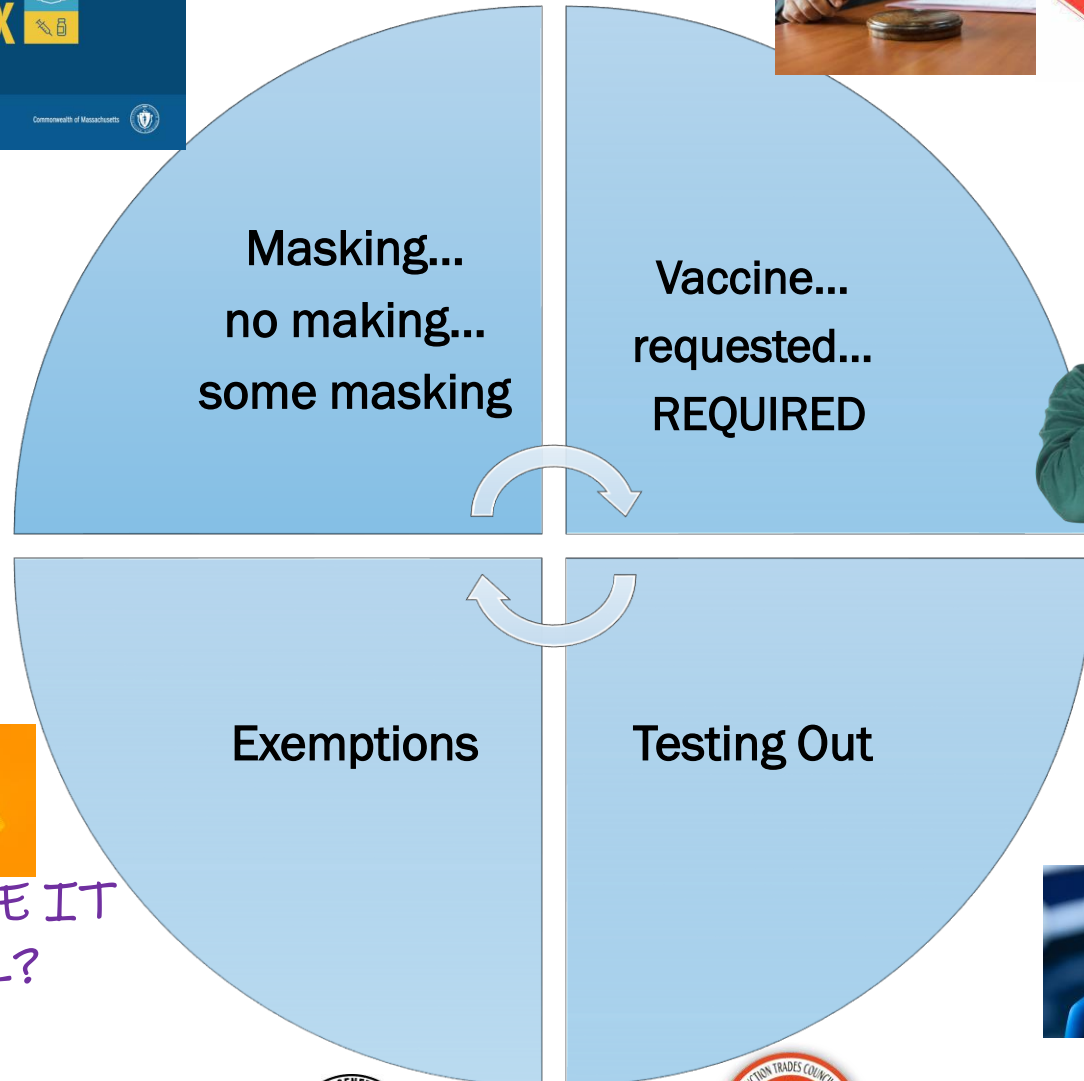
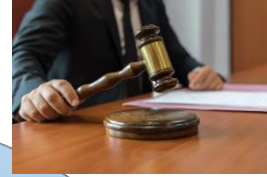


**HUNTER
ROBERTS
CONSTRUCTION
GROUP**

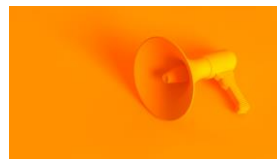
**VACCINE &
TESTING
MANDATES**

The following is not legal advice, and no attorney-client relationship is created by this presentation. The views expressed are those of this presenter in her individual capacity; liability expressly disclaimed.

ESSENTIAL LEADERSHIP AND CLEAR DIRECTION



Covid fatigue



PSA - MAKE IT
PERSONAL?




BLOCKING AND TACKLING

Vaccines

- Timing – Status Survey, Advance Planning
- Onsite vs Worker Chosen Provider (control)
- Exemptions – where permitted
- Boosters – not for OSHA, but private clients?
Others?

BLOCKING AND TACKLING

Vaccines

- Acceptable evidence
 - CDC Card
 - State/Locality Passes
 - Pharmacy QR
 - Doctor Records
 - Attestations – OSHA ETS (where employee unable to produce – lost stolen)
 - *Others* -  CLEAR

BLOCKING AND TACKLING

Testing

- Type – Rapid, PCR, Self-administered/Self-read (unless observed)
- Onsite – Cost and Productivity Impacts
- Come Mondays showing with Negative Result to Enter
- Cost – Insurance, Escalation

BLOCKING AND TACKLING

Vaccine and Testing Records

- Record Requirements
 - OSHA ETS – “*The employer must retain either a physical or digital copy of the documentation.*”
- Confidential Medical Records Responsibilities
 - Maintenance
 - Employee Consent to Examination by Others
- Confirming Accuracy

BLOCKING AND TACKLING

Leveraging Resources to Monitor, Track and Report

- 3rd Party Providers
 - Testing
 - Tech – Analytics to Monitor Masking?
- Affirmations and Delegation to Trades (where permitted)
- Existing Resources
 - Human resources
 - On-site medics
 - Badging



QUESTIONS?