



AGC
THE CONSTRUCTION
ASSOCIATION

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

November 10, 2021

Practical Considerations for Construction Firms

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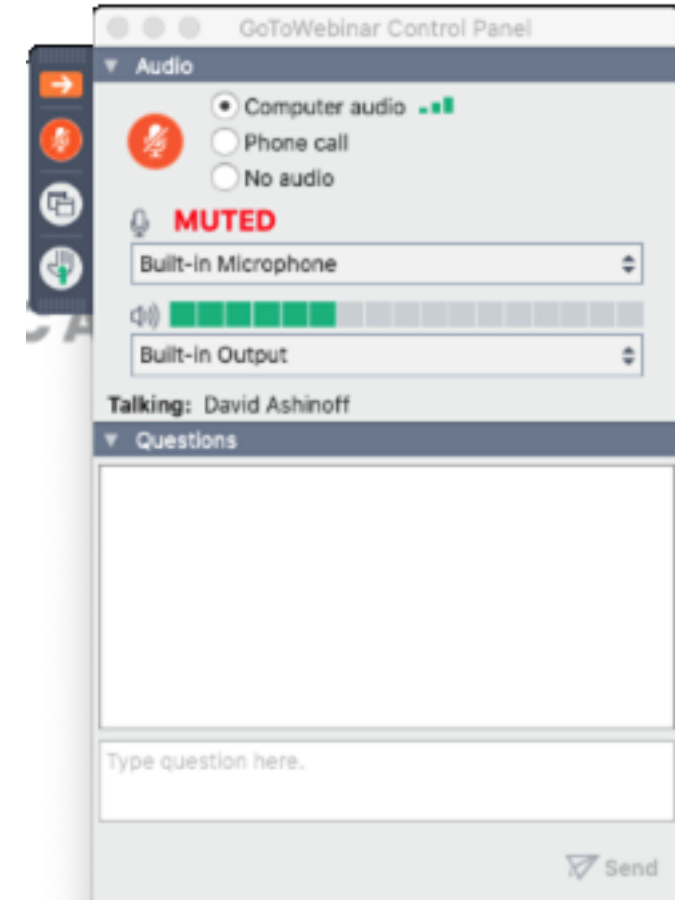
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- A recording of today's webinar along with a copy of the slides will be emailed to all registrants shortly.



Presentation Overview

- AGC of America Advocacy
- The OSHA ETS in Sum
- Discussion on Practical Compliance Considerations for Construction Firms
- Open Q&A (questions encouraged throughout)



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.

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



- **December 6, 2021 Requirements**
 - Employer Policy on Vaccinations; Information Provided to Employees
 - Determining Employee Vaccination Status
 - Employer Support for Employee Vaccination
 - Employee notification to employer of a positive COVID-19 Test and Removal
 - Face Coverings for Unvaccinated Employees
 - Information Provided to Employees.
 - Reporting COVID-19 fatalities and hospitalizations to OSHA.
 - Maintaining Medical Records
- **January 4, 2022 Requirement**
 - COVID-19 Testing for Employees who are Not Fully Vaccinated.

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.

TODAY'S PANELISTS

- **Leah Ramos**, Regulatory Compliance Counsel, STO Building Group
- **Tyler L. Henson**, Senior Vice President / Senior Risk Management Director, JE Dunn Construction Company
- **Kevin Cannon**, Senior Director, Safety & Health Services, AGC of America



The Big / Little Picture Discussion



TOPIC ONE: Determining Vaccination Status



- What considerations have gone into best determining who in your company is vaccinated or unvaccinated?
 - Review information from previous/ongoing jobs with vaccine mandates
 - Clear communication on why we need vax status:
 - Necessary for us to meet government requirement and keep working
 - What we need to do to keep our people, their families, our communities safe and healthy.
 - Consequences for both the individual and the company if we do not have this information.
 - Limit requests for vax status to legit business needs (ADA/anti-discrimination)
 - Consider impacts on how your vaxed/unvaxed employees treated (culture, morale)

TOPIC ONE: Determining Vaccination Status



- What different ways are you looking at obtaining this information or communicating the need for it from **all** your employees, especially those hard-to-reach employees in the field?
 - Know and understand the limitations of your tools / approaches
 - No one tool / approach will likely get every employee; layered approach
 - Communicate, exhibit and maintain confidentiality

TOPIC TWO: Testing & Tracking



- How are you looking at approaching the weekly testing requirement?
 - Professional testing service
 - Individual kits administered by employee while supervised
 - The right approach may depend upon the specific location
 - Need POC on recordkeeping; may want to consider vendor
 - May have to share records with employees upon request and OSHA quickly
 - Be mindful of red flags that call into question document's authenticity
 - Understand state / local laws regarding who pays for testing

TOPIC TWO: Testing & Tracking



- How do you track and ensure you appropriately utilize your vaccinated/unvaccinated workers?
 - Again, have a POC (e.g., someone in HR project teams can reach out to)
 - By way of visually identifying your vaccinated vs. unvaccinated
 - Unsure of the GC/subcontractor liability under the multiemployer workplace OSHA policy; Owners could have differing more stringent requirements

TOPIC THREE:

Accommodation Process



- When it comes to vaccine and testing mandates, employers have to provide various types of accommodations to employees for a variety of reasons. How are you considering managing and processing accommodations?
 - Know the standards for both medical & religious accommodations and presumptions; <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
 - Decide on how you want to manage and process accommodation requests; communicate that to employees
 - Who is/are your decisions makers?
 - Communicate determination request in writing

TOPIC FOUR: Company Policy Comms. & Employee Relations



- Everything we have discussed requires clear and coordinated communication of the company policy, while also managing employee relations and expectations. What considerations are you thinking about on this topic?
 - Determine who is right to deliver the message to the right audiences
 - Think about different types/forms of communication (obviously policy in writing, but may need more personal and open touches)
 - Guidance is evolving; but we're in this together and support each other
 - We are all striving to put the pandemic behind us

TOPIC FIVE: Collective Bargaining Issues



- When it comes to instituting this ETS, what considerations are you giving to your existing collective bargaining agreements?
 - Too soon to know (as determining how to implement)
 - Keep lines of communication open (we're all in this together)

