
POLICY STATEMENTS
Policy No. 165
COVID-19 Mitigation Policy – OSHA ETS

Effective Date:
January 10, 2022

PURPOSE

In accordance with the Company's duty to protect the health and safety of all employees and provide a safe and secure working environment, the Company is adopting this policy to safeguard the health of all our employees and their families, our customers and visitors, and the public from COVID-19. This policy is intended to comply with all applicable laws, rules and regulations in place at the time of issuance of this policy, including the Occupational Safety and Health Administration's ("OSHA") Emergency Temporary Standard on Vaccination and Testing ("ETS") (29 CFR 1910.501), and is being applied in a non-discriminatory fashion. For more information on the ETS, see the [ETS Summary](#), [Fact Sheet on COVID-19 Vaccination and Testing](#), and the [ETS - Frequently Asked Questions](#) (also viewable in Spanish) published by OSHA.

SCOPE

- A. This policy applies to all current and future employees of MDU Resources Group, Inc. and all of its subsidiaries (hereinafter collectively referred to as the "Company"), except for the following:
 - 1. Employees or workplaces covered under the Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors (Executive Order 14042) and corresponding Company policy; or
 - 2. Employees who work from home, do not report to a workplace where other individuals such as coworkers or customers are present, or work exclusively outdoors; or
 - 3. Employees who work for an employer with less than 100 employees. [Note: employee counts are constantly changing, so please check with your Human Resources' representative to determine whether your employer meets this requirement.]
- B. For employees subject to a collective bargaining agreement ("CBA"), if any parts of this policy differ from the CBA, the terms and conditions of the CBA will apply.
- C. It is anticipated that in states having their own OSHA-approved State Plan, each state will amend their standards to be identical or at least as effective as the ETS, so this policy will apply. If more protective occupational safety and health requirements are adopted in the states with OSHA-approved State Plans, then the more protective standards will apply in those states.
- D. If this policy conflicts with any federal, state, or local laws, rules, or regulations, including state specific OSHA plans, the applicable law, rule, or regulation applies.

DEFINITIONS

- A. An employee who works "exclusively outdoors" is defined as meeting all of the following criteria:
 - 1. The employee must work outdoors on all days (i.e., an employee who works indoors on some days and outdoors on other days would not be exempt from the requirements of the OSHA ETS).

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2. The employee must not routinely occupy vehicles with other employees as part of work duties (i.e., do not drive to worksites together in a company vehicle).
3. The employee works outdoors for the duration of every workday except for *de minimis* use of indoor spaces where other individuals may be present – such as a multi-stall bathroom or an administrative office – as long as the time spent indoors is brief, or occurs exclusively in the employee’s home (e.g., a lunch break at home).

B. Face covering, for purposes of the OSHA ETS, is defined as a covering that:

1. Completely covers the nose and mouth;
2. 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);
3. 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;
4. Fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
5. Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.
6. This definition also 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 these criteria 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

C. Fully vaccinated, for purposes of the OSHA ETS, is defined as:

1. A person’s status two (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:
 - i. Approved or authorized for emergency use by the FDA;
 - ii. Listed for emergency use by the World Health Organization (WHO); or
 - iii. 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
2. A person’s status two (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.

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

PROCEDURE

As of January 10, 2022, employees subject to this policy are required per the OSHA ETS to submit proof of vaccination status as outlined in Section II and comply with the masking requirements as outlined in Section IV, below.

As of February 9, 2022, employees subject to this policy are required per the OSHA ETS to have received the requisite number of doses for a primary vaccination series (i.e., one dose of Janssen (Johnson & Johnson) or two doses of either Pfizer-BioNTech or Moderna COVID-19 vaccines) or submit a negative COVID-19 test result weekly. To be in compliance with this policy, employees must either receive the COVID-19 vaccine as outlined in Section I or follow the weekly testing process and masking requirements as outlined in Sections III and IV.

Employees hired between January 10 and February 8, 2022, are required to submit proof of vaccination status as outlined in Section II and comply with the face covering requirements as outlined in Section IV, if applicable. Employees hired after February 9, 2022, are required to be fully vaccinated as outlined in Sections I and II, below, by their first day of work or receive a negative test result on or before their first day of work, with subsequent weekly testing as described below.

I. Vaccination

Any employee that chooses to be vaccinated against COVID-19 will not be subject to the provisions of Section III and IV once they are considered fully vaccinated. Any employee not fully vaccinated by February 23, 2022 (this date includes the 2-week waiting period following the February 9, 2022 deadline for receipt of the requisite number of doses) will be subject to the regular testing and face covering requirements of the policy unless or until such time that they become fully vaccinated. The CDC has issued useful information about vaccines for employees to review before making a decision about whether to get the vaccine. See [Key Things to Know About COVID-19 Vaccines \(Spanish\)](#).

To meet the February 9, 2022, deadline and be considered fully vaccinated by February 23, 2022, and therefore exempt from the testing requirements, an employee must:

- Obtain the first dose of the Pfizer-BioNTech COVID-19 vaccine on or before January 19, 2022, and get their second dose 21 days later; or
- Obtain the first dose of the Moderna COVID-19 vaccine on or before January 12, 2022, and get their second dose 28 days later;
- Obtain the one dose Janssen (Johnson & Johnson) COVID-19 vaccine on or before February 9, 2022.

An employee will be considered partially vaccinated if they have received only one dose of a two-dose vaccine. **See Attached Addendums as applicable** for details regarding how employees

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may schedule their vaccination appointments, e.g., through an on-site clinic, through their own medical provider, or with a mass-vaccination clinic.

II. Vaccination Status and Acceptable Forms of Proof of Vaccination

A. Vaccinated Employees

All vaccinated employees are required to provide proof of COVID-19 vaccination, regardless of where they received vaccination. **See Attached Addendums as applicable** for details regarding how proof of vaccination status can be submitted.

Acceptable proof of vaccination status includes:

1. The record of immunization from a health care provider or pharmacy;
2. A copy of the COVID-19 Vaccination Record Card;
3. A copy of medical records documenting the vaccination;
4. A copy of immunization records from a public health, state, or tribal immunization information system; or
5. 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).

Proof of vaccination generally should include the employee's name, the type of vaccine administered, the date(s) of administration, and the name of the health care professional(s) or clinic site(s) that administered the vaccine. In some cases, state immunization records may not include one or more of these data fields, such as clinic site. In those circumstances, the Company will still accept the state immunization record as acceptable proof of vaccination.

An employee who does not possess their COVID-19 vaccination record (e.g., because it was lost or stolen) should contact their vaccination provider (e.g., local pharmacy, physician's office) to obtain a new copy or utilize their state health department's immunization information system.

If an employee is unable to produce one of these acceptable forms of proof of vaccination, the employee can provide an [Employee Attestation of COVID-19 Vaccination Status](#), but before an employee statement will be acceptable for proof of vaccination, the employee must have attempted to secure an alternate form of documentation as noted above.

The attestation of COVID-19 vaccination status must attest to their vaccination status (fully vaccinated or partially vaccinated); attest that they have lost and are otherwise unable to produce one of the other forms of acceptable proof; and include 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."

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An employee who attests to their vaccination status in this way should, to the best of their recollection, include in their attestation the type of vaccine administered, the date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine.

B. All Employees

All employees, regardless of vaccination status, must inform the Company of their vaccination status on or before January 10, 2022, and must keep the Company updated of any changes in status on an ongoing basis. If no status is received by February 9, 2022, the Company will assume an employee is unvaccinated and weekly testing will be required as set forth in Section III, below.

C. Supporting COVID-19 Vaccination

Employees may be approved to take up to four hours of paid leave, at the employee's regular rate of pay, per primary vaccination dose to travel to the vaccination site, receive a vaccination, and return to work. If an employee spends less time getting the vaccine, only the necessary amount of time should be requested and approved. Employees who need longer than four hours to get the vaccine may request a longer period of time. This leave will not be charged to employees' sick leave, vacation, or paid time off accounts.

Employees may utilize up to two workdays of paid time off/sick leave following each dose if they have side effects from the COVID-19 vaccination that prevent them from working. Employees who have insufficient or no paid time off/sick leave will be granted up to two days of additional paid sick leave to recover from side effects following each dose, if necessary.

See Attached Addendums as applicable for details about how to submit time off requests/time cards with requests for time off to obtain the COVID-19 vaccine or to recover from side effects.

III. Weekly Testing

Beginning February 9, 2022, employees who are not fully vaccinated, or have not submitted proof of vaccination, against COVID-19 must present a negative COVID-19 test result weekly.

A. Employees who report to the workplace at least once every seven days:

1. Must be tested for COVID-19 at least once every seven days; and
2. Must provide documentation of the most recent COVID-19 test result no later than the seventh day following the date on which the employee last provided a test result.

B. Employees who do not report to the workplace during a period of seven or more days (e.g., teleworking for two weeks prior to reporting to the workplace):

1. Must be tested for COVID-19 within seven days prior to returning to the workplace; and
2. Must provide documentation of that test result prior to or upon return to the workplace.

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- C. Employees who do not provide documentation of a COVID-19 test result as required by this policy will be removed from the workplace until they provide a test result. Employees who receive a positive test result under this process will also be immediately removed from the workplace pending review by Human Resources or other designated personnel.
- D. Employees who have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider are not required to undergo COVID-19 testing for 90 days following the date of their positive test or diagnosis.
- E. Employees found to have provided doctored, forged, or counterfeit documentation will be subject to discipline, up to and including termination of employment. Employees who do not submit documentation of testing as required under this Policy may also be subject to discipline, up to and including termination of employment.

See Attached Addendums as applicable for details about how employees should meet the weekly testing requirement, including where and when they can get tested, the required schedule for testing this should address any differences between employees who regularly come to the workplace versus those who do not, and the cost of testing.

IV. Face Coverings

- A. Beginning January 10, 2022, all employees who are not fully vaccinated must wear a face covering, as defined above, whenever they are indoors or in a vehicle with another person for work purposes. Some states may continue to require face coverings for all employees regardless of vaccination status, so please consult your supervisor or HR representative if you have questions regarding local face covering rules. As noted in the Scope above, the stricter rules will apply.
- B. Under the ETS, face coverings do not need to be worn:
 - 1. When an employee is alone in a room with floor to ceiling walls and a closed door.
 - 2. For a limited time, while an employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.
 - 3. When an employee is wearing a respirator or facemask (as specifically defined in the ETS).
 - 4. Where management has determined that the use of face coverings is infeasible or creates a greater hazard (*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).

See Attached Addendums as applicable for details about how to obtain face coverings and instructions about when and how they should be worn or used at work (including when wearing a face covering is considered to be infeasible or a greater hazard).

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V. Reasonable Accommodation

- A. Employees may request an exemption from a vaccination requirement, if applicable, if the vaccine is medically contraindicated for them or medical necessity requires a delay in vaccination. Employees also may be legally entitled to a reasonable accommodation if they cannot be vaccinated and/or wear a face covering and/or receive weekly testing as otherwise required by this Policy due to a disability or medical condition, or if the provisions in this policy for vaccination, and/or testing for COVID-19, and/or wearing a face covering conflict with a sincerely held religious belief, practice, or observance. Please note that philosophical, political, scientific, sociological, or other objections to immunization (rather than sincerely held religious beliefs) do not justify an exemption.
- B. Employees seeking an accommodation must submit a completed request for accommodation form to their local human resources department to begin the interactive accommodation process as soon as possible. Accommodations will be granted where they do not cause the Company undue hardship or pose a direct threat to the health and safety of others. **See Attached Addendums as applicable** for details about how to request an accommodation. All such requests will be handled in accordance with applicable laws and regulations, including but not limited to the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964. Employees who are granted exemptions from vaccination or masking will still be subject to weekly testing requirements, unless said exemption also addresses testing.

VI. Employee Notification of COVID-19 and Removal from the Workplace

- A. Employees must notify their supervisor or manager before reporting to the workplace if they are experiencing any COVID-19 symptoms. Employees should not be at work if they are ill.
- B. Employees must promptly notify their immediate supervisor when they have tested positive for COVID-19, have been diagnosed with COVID-19 by a licensed healthcare provider, or have come into close contact (indoors, without masks for more than 15 minutes) with an individual who has been diagnosed or tested positive for COVID-19.
- C. COVID-19 positive employees (including those diagnosed through weekly testing under Section III of this policy) will also remain isolated from the workplace in certain circumstances. Human Resources or other designated personnel will immediately remove an employee from the workplace if they have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider (*i.e.*, immediately send them home or to seek medical care, as appropriate).
- D. Any employee removed from the workplace because they are COVID-19 positive may return upon receiving 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; meets the return to work criteria in CDC's "Isolation Guidance"; or receives a recommendation to return to work from a licensed healthcare provider.

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Under CDC's updated [Isolation Guidance \(Spanish\)](#), asymptomatic employees, regardless of vaccination status, may return to work under the following conditions:

- They have isolated at home for five days; AND
- They have not developed symptoms of COVID-19, OR any symptoms that did develop have resolved after five days; AND
- They wear a face covering while around other people for an additional five days after the five-day isolation period.

If an employee has severe COVID-19 or an immune disease, the Company will follow the guidance of a licensed healthcare provider regarding return to work.

See Attached Addendums as applicable for details about how employees will communicate with the employer if they are sick or experiencing symptoms while at home or at work, access to paid time off/sick leave for COVID-19 reasons, contact tracing and removal of COVID-19 employees from the workplace, availability of remote and isolated work while COVID-19 positive, and returning to work following removal from the workplace for COVID-19 reasons.

VII. Confidentiality and Privacy

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing, will be treated in accordance with applicable laws and policies on confidentiality and privacy.

VIII. Enforcement; Discrimination and Retaliation Prohibited

- A. Employees who believe that someone is violating this policy or the law should report it immediately to their immediate supervisor/manager, human resources representative, a Company executive, or anonymously through EthicsPoint at <https://ethics.mdu.com> or by calling the 24/7 Hotline at 1-866-294-4676.
- B. All employees included in the scope of this policy are protected from unlawful discrimination, harassment, and retaliation on the basis of any legally protected category defined by state or federal law, in compliance with the Company's [EEOC policy](#). Employees are also protected from retaliation for engaging in activities protected by OSHA statute or regulation, and specifically from discharge or discrimination for reporting work-related injuries or illness (29 CFR 1904.35(b)(1)(iv)) or for exercising any rights under, or as a result of actions that are required by, the ETS (section 11(c) of the OSH Act). See also [Workers' Rights under the COVID-19 Vaccination and Testing ETS \(Spanish\)](#).
- C. Employees may be disciplined, up to and including termination of employment, if they knowingly violate any provision of this policy, including providing false statements or documentation to the Company related to COVID-19 vaccination status or testing.

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- D. Employees may also be subject to criminal penalties for providing false statements and records to the Company regarding their COVID-19 vaccination status. See [Information for Employees on Penalties for False Statements and Records \(Spanish\)](#).

IX. Modification

The Company reserves the right to modify this policy and accompanying addendums at any time in its sole discretion to adapt to changing circumstances, business needs, and legal requirements, consistent with its commitment to maintaining a safe and healthy workplace. The Company also may modify this policy to conform to updated guidance or requirements issued by OSHA, the CDC, or similar authority. The Company will notify employees of any changes to this policy.

ADMINISTRATION

For MDU Resources Group, Inc. employees, Human Resources is responsible for administering this policy. For business units within MDU Resources Group, Inc., the business unit Director or VP of Human Resources or VP of Administration is responsible for administering this policy. The MDU Resources Group, Inc. Vice President & Chief Human Resources Officer shall maintain general administrative oversight of this policy.

Reviewed: /s/ Anne M. Jones
Vice President and Chief
Human Resources Officer

Approved: /s/ David L. Goodin
President and Chief Executive Officer

Date: January 7, 2022