

# OSHA's Forthcoming Emergency Temporary Standard on COVID-19 Vaccinations: What Employers Need to Know

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The Biden Administration announced Thursday that the Department of Labor's Occupational Safety and Health Administration (OSHA) is developing a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated against COVID-19 or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work.

OSHA will issue an Emergency Temporary Standard (ETS) to implement this requirement. This requirement will impact over 80 million workers in private sector businesses with 100+ employees. The rule will carry penalties of \$14,000 per violation. Part of OSHA's new guidance is expected to include paid time off for vaccination and recuperation for any side-effects from the vaccine.

While legal challenges are expected, the administration is likely to argue that the OSH Act provides OSHA the authority to issue Emergency Temporary Standards for employee safety. The OSH Act generally gives OSHA the ability to issue an ETS that would remain in effect for up to six months without going through the normal review and comment process of rulemaking.

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