

LEGAL UPDATE

OSHA Developing Private Sector Emergency Temporary Standard for COVID-19

On Sept. 9, 2021, President Biden [announced](#) that the Occupational Safety and Health Administration (OSHA) is developing an emergency temporary standard (ETS). The new ETS will require private-sector employers with 100 or more employees to ensure their workforce is fully vaccinated or test negative for COVID-19 every week before coming to work.

This announcement follows the vaccination, masking and social distancing [requirements](#) issued by the president in July for the public sector—federal employees and on-site contractors.

There currently is no time frame as to when the new ETS will be released. The government estimates that the ETS will impact over 80 million private-sector workers.

Current OSHA ETS

OSHA currently has a [COVID-19 ETS](#) for the health care and health care support workers. This ETS covers hospitals, nursing homes and assisted living facilities; emergency responders; home health care workers; and employees in ambulatory care settings where suspected or confirmed COVID-19 patients are treated.

OSHA has also issued [guidance](#) to help employers and workers not covered by the health care ETS. This guidance is to help employers protect workers who are unvaccinated, otherwise at-risk, or fully vaccinated but in areas of substantial or high community transmission.

Next Steps

Employers should continue to protect at-risk, unvaccinated and fully vaccinated workers. Employers should also monitor OSHA communication channels to become familiar with the expected private sector ETS once it is published.

Important Information

OSHA's ETS for employers with 100 or more employees will be required to:

- Ensure their employees are fully vaccinated; or
- Require any workers who remain unvaccinated to produce a negative test results on a weekly basis before coming to work.

OSHA is developing a COVID-19 emergency temporary standard for private-sector employers with more than 100 employees.

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