

Legal Update

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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.

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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.**