



Mandatory Vaccines Update: OSHA Sends Draft ETS to White House

Oct 14, 2021

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As we previously [reported](#), on September 9, President Joe Biden tasked the Occupational Safety and Health Administration (OSHA) with drafting an Emergency Temporary Standard (ETS) mandating that, among other things, employers with 100 or more employees must require all employees to either receive a COVID-19 vaccine or submit to weekly testing. OSHA delivered a draft of that ETS to the White House on October 12 for final regulatory review. While this regulatory review process can take as long as 90 days, President Biden has requested that it be expedited.

This news suggests that the ETS's approval and publication is imminent, though the details of the impending ETS remain scarce. While we expect the ETS, once published, to face swift legal challenges, employers should start considering their compliance now, in the event those legal challenges fail. For instance, employers may determine whether their business will be covered by the ETS (100+ employees); survey employees' vaccination status; research local testing options; assess your accommodation obligations under Title VII and the Americans with Disabilities Act; and/or consider drafting a mandatory vaccination policy. Employers should, of course, coordinate these efforts with counsel to ensure compliance with current state and federal mandates or restrictions.

As news of OSHA's expected ETS continues to trickle out slowly, Frost Brown Todd will continue to promptly update and advise employers on their obligations.

For questions or additional information, please contact [Catherine Burgett](#), [Kyle Johnson](#), [Steve Tolbert](#), or any attorney in Frost Brown Todd's [Labor and Employment Group](#).

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