

Government Relations Update – November 4, 2021

Urgent Government Relations Update

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Biden Administration announces OSHA ETS and moves Federal Contractor deadline

The Biden Administration this morning released new information on the OSHA ETS as well as the federal contractor mandate. They have aligned the two new deadlines on January 4. We are still reviewing the information, but you can read the White House release here:

- [Biden Administration Announces Details of Two Major Vaccination Policies](#)

The Department of Labor is holding a briefing this afternoon **from 1:00-1:45 p.m. ET** with senior DOL, OSHA, and administration officials to provide an overview of the ETS, including guidance around implementation and answers to key questions. You can **RSVP by clicking [Here](#)** or the full link: https://pitc.zoomgov.com/webinar/register/WN_T8GPW8GYRAeclx9QEvmJQ

From the White House release, description of the OSHA ETS:

- **Get Their Employees Vaccinated by January 4th and Require Unvaccinated Employees to Produce a Negative Test on at Least a Weekly Basis:** All covered employers must ensure that their employees have received the necessary shots to be fully vaccinated – either two doses of Pfizer or Moderna, or one dose of Johnson & Johnson – by January 4th. After that, all covered employers must ensure that any employees who have not received the necessary shots begin producing a verified negative test to their employer on at least a weekly basis, and they must remove from the workplace any employee who receives a positive COVID-19 test or is diagnosed with COVID-19 by a licensed health care provider. The ETS lays out the wide variety of tests that comply with the standard. Given that vaccines are safe, free, and the most effective way for workers to be protected from COVID-19 transmission at work, the ETS does not require employers to provide or pay for tests. Employers may be required to pay for testing because of other laws or collective bargaining agreements.
- **Pay Employees for the Time it Takes to Get Vaccinated:** All covered employers are required to provide paid-time for their employees to get vaccinated and, if needed, sick leave to recover from side effects experienced that keep them from working.
- **Ensure All Unvaccinated Employees are Masked:** All covered employers must ensure that unvaccinated employees wear a face mask while in the workplace.
- **Other Requirements and Compliance Date:** Employers are subject to requirements for reporting and recordkeeping that are spelled out in the detailed OSHA materials [available here](#). While the testing requirement for unvaccinated workers will begin after January 4th, employers must be in compliance with all other requirements – such as providing paid-time for employees to get vaccinated and masking for unvaccinated workers – on December 5th. The Administration is calling on all employers to step up and make these changes as quickly as possible.

From the White House release, description of the aligned deadlines for the OSHA ETS and the federal contractor executive order:

- **Streamlining Implementation and Setting One Deadline Across Different Vaccination Requirements:** The rules released today ensure employers know which requirements apply to which workplaces. Federal contractors may have some workplaces subject to requirements for federal contractors and other workplaces subject to the newly-released COVID-19 Vaccination and Testing ETS. To make it easy for all employers to comply with the requirements, the deadline for the federal contractor vaccination requirement will be aligned with those for the CMS rule and the ETS. **Employees falling under the ETS, CMS, or federal contractor rules will need to have their final vaccination dose – either their second dose of Pfizer or Moderna, or single dose of Johnson & Johnson – by January 4, 2022.** This will make it easier for employers to ensure their workforce is vaccinated, safe, and healthy, and ensure that federal contractors implement their requirements on the same timeline as other employers in their industries. And, the newly-released ETS will not be applied to workplaces subject to the federal contractor requirement or CMS rule, so employers will not have to track multiple vaccination requirements for the same employees.

Many thanks—

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