



OSHA HALTS IMPLEMENTATION AND ENFORCEMENT OF VACCINE MANDATE FOR LARGE EMPLOYERS

On November 16, 2021, the Occupational Safety and Health Administration (“OSHA”) announced that it is pausing activities relating to the implementation and enforcement of the COVID-19 Vaccination and Testing Emergency Temporary Standard, published on November 5, 2021 (86 Fed. Reg. 61402) (“ETS”). For more details regarding the ETS, please see our previous article “Vaccine Mandate: Coming Soon to a Large Employer Near You”.

OSHA’s announcement comes after a panel for the United States Court of Appeals for the Fifth Circuit ordered on November 12, 2021 that OSHA “take no steps to implement or enforce” the ETS. This suspension applies to the ETS concerning employers with 100 or more employees, but not the vaccine mandate that remains in place for federal contractors and healthcare employers that participate in Medicare or Medicaid programs.

For employers with 100 or more employees, this announcement means that employers are not presently faced with the upcoming December 6, 2021 and January 5, 2022 deadlines set forth in the ETS. However, due to the complex nature of the requirements set forth in the ETS, employers may want to continue planning for potential future compliance in the event that the ETS is determined to be enforceable. Employers must also continue to comply with all state and local health protocols and safety requirements.

Employers should continue to monitor this evolving situation and look for future announcements from OSHA and decisions from the courts regarding the implementation and enforcement of the ETS.

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