

Federal Appeals Court Halts Biden Administration's COVID Vaccine Mandate for Private Businesses



A federal appeals court on Saturday [issued a stay](#) temporarily halting the Biden administration's private employer COVID vaccine mandate citing, "grave statutory and constitutional" issues with the requirement.

"Because the petitions give cause to believe there are grave statutory and constitutional issues with the mandate, the mandate is hereby STAYED pending further action by this court," the U.S. Court of Appeals for the Fifth Circuit said in the [order](#).

The [case was brought](#) by multiple businesses, individuals and several states, including Texas, Utah and Mississippi.

The Occupational Safety and Health Administration (OSHA) on Nov. 4, [issued an emergency temporary standard](#) (ETS) giving

employers with more than 100 employees until Jan. 4 to comply with President Biden's [COVID vaccine mandate](#) or [face large fines](#).

The 490-page rule, [published in the Federal Register](#) on Nov. 5, says: "covered employers must develop, implement and enforce a mandatory COVID-19 vaccination policy, with an exception for employers that instead adopt a policy requiring employees to either get vaccinated or elect to undergo regular COVID-19 testing and wear a face covering at work in lieu of vaccination."

Petitioners said the [mandate](#), publicized as an ETS by OSHA, [should be struck down](#) because it exceeds OSHA's authority under the [Occupational Safety and Health Act](#).

Petitioners said OSHA's authority is limited to workplace-related hazards and "allowing OSHA to implement standards based on dangers in society generally, rather than work specific dangers, would be a huge shift in law, giving OSHA far more power than Congress intended."

Petitioners also said the [mandate doesn't make sense](#) because determining whether COVID is a workplace hazard depends on employees' age and health, not how many co-workers they have.

"In an attempt to impose a nationwide vaccination mandate without approval from Congress, the executive branch has couched its COVID-19 vaccine mandate as an emergency workplace rule affecting nearly 100 million Americans. But the ETS is neither a workplace rule nor responsive to an emergency," petitioners' lawyers wrote in their [emergency motion](#) asking the court to impose a stay.

"Vaccination status is a public health issue that affects people throughout society; it is not a hazard particular to the workplace. And there is no need to use an emergency rule to address a pandemic that has been going on for nearly two years. Congress did not grant OSHA such sweeping powers in its

authorizing statute,” the motion said.

In a [statement](#), Solicitor of Labor Seema Nanda said the Labor Department was “confident in its legal authority” to issue the rule, which will be enforced by OSHA.

“The Occupational Safety and Health Act explicitly gives OSHA the authority to act quickly in an emergency where the agency finds that workers are subjected to a grave danger and a new standard is necessary to protect them,” Nanda said. “We are fully prepared to defend this standard in court.”

OSHA’s [new rule](#) applies to 84.2 million workers at 1.9 million private-sector employers, [according to OSHA](#). The Biden administration’s [numerous vaccine rules](#) cover 100 million employees – about two-thirds of the U.S. workforce, according to the White House.

The Biden administration must respond to the petitioners’ [motion for a permanent injunction](#) against the rule by 5 p.m. Monday. The rule is also facing a mountain of [legal challenges](#) before other courts by at least 27 states.