

OSHA Suspends Implementation and Enforcement of Biden Administration's COVID Vaccine Mandate for Businesses



The Occupational Safety and Health Administration (OSHA) said it will abide by a court order issued by the 5th Circuit Court of Appeals, and suspend enforcement of the Biden administration's [COVID vaccine mandate](#) on businesses with more than 100 employees.

In a [statement](#) shared on OSHA's website, the agency said, "The court ordered that OSHA 'take no steps to implement or enforce' the ETS [Emergency Temporary Standard] 'until further court order.' While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation."

Under the ETS, employers with more than 100 employees were given until Jan. 4 to comply with Biden's [COVID vaccine mandate](#) to get vaccinated or undergo weekly testing, a guideline poised to impact 80 million workers.

In a 22-page [opinion](#) issued Nov. 12, a three-judge panel on the U.S. Court of Appeals for the Fifth Circuit said OSHA's rule "grossly exceeds" the authority of the occupational safety agency that issued it. Judge Kurt Engelhardt, writing for the court, said petitioners' challenges to the mandate showed a great likelihood of success on the merits, weighing critically in favor of a stay – and if not stayed, the mandate would cause irreparable harm

The court said OSHA should "take no steps to implement or enforce the mandate until further court order."

"OSHA is complying with the 5th Circuit's stay," said a [Department of Labor official](#). "OSHA is not enforcing or implementing the reg – so they are not engaging or offering compliance assistance."

Prior to the suspension of enforcement, senior administration officials said OSHA would assist employers in developing their own vaccine and testing standards. [Under the rule](#), if a company committed a willful violation, it could be fined up to \$136,532, a White House official during a [press briefing](#) on Nov. 4. The standard penalty is \$13,653 for a single violation but could increase with more violations.

OSHA's latest action does not affect a [separate mandate](#) from the Centers for Medicare and Medicaid Services requiring certain healthcare workers receive their first dose of a COVID vaccine by Dec. 6. Several Congressional Republicans, governors and state officials have [filed suit](#) against the federal contractor mandate.