



Point of Contact:
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Issues

- The fine is too large.
 - Although it is unclear what constitutes a violation, at \$14,000 per violation businesses could face six figure fines if less than 8 employees do not comply with a company's vaccine workplace policy.
- There is no affirmative defense or safe harbor that employers can assert if they take certain steps in a good faith effort to comply with the ETS
- Employers need time from when OSHA issues the ETS to when it takes effect. Right now there are no specific details so employers cannot properly begin to develop their new policies

Questions

- What constitutes a violation is unknown
 - Will employer obligations end at creating a vaccine policy in accordance with the ETS or will employer obligations extend to verifying each employee complies with the vaccine workplace policy?
- The definition of employee
 - Will the OSHA ETS apply only when there are 100 employees at a single location or is it 100 employees companywide?
 - Do employees who are working from home count towards the 100 employee minimum?
 - How will ETS address Professional Employer Organizations (PEO's) and staffing companies?
- Testing requirements
 - Will a rapid test or a PCR test be required?
 - Will employer be required to pay for testing and/or provide paid time off for employee to get a test?
- Verifying vaccination status
 - What steps does an employer need to take to verify a person's vaccination status so the employee can be exempted from weekly testing?
- Religious and disability exemptions
 - How will the ETS address employees who seek an exemption from receiving the vaccine due to a sincerely held religious belief or disability?
- Obligations to provide paid time off
 - What type of vaccine related injuries will require employer to provide an employee with paid time off?
 - How will employer verify the employee's vaccine related injury?

- Collective Bargaining Rights
 - Are employers and their union workforce able to collectively bargain any terms of testing or vaccine administration?
- Workers' Compensation Liability
 - Will workers' compensation liability exist for vaccine related injuries despite ETS requiring employers to implement vaccine policy?
- Unemployment Compensation Eligibility
 - If an employee leaves their employment due to OSHA ETS is the person eligible for unemployment compensation?