



Written by [Raven Clabough](#) on November 4, 2021

Breaking News: Vax Mandate for Private Sector Companies Drafted, Deadline Set for Jan. 4, 2022

The Biden administration is moving forward with likely its most controversial COVID policy yet: a vaccine and COVID-test mandate for private-sector companies with more than 100 employees, ABC News reported on Wednesday.

The Occupational Safety and Health Administration (OSHA) has advanced the rule under a temporary emergency provision that would apply to all private American businesses employing more than 100 workers, impacting approximately 80 million Americans. Fox News reported a January 4 deadline has been set, prompting Republicans to warn that the mandate will exacerbate an already-critical worker shortage ahead of the holidays.



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Unvaccinated workers would be required to undergo regular testing. Bloomberg reported the rule would permit employers to force workers who refuse the vaccine to pay for weekly tests and masks.

Separate from the OSHA rule is a new rule from the Centers for Medicare and Medicaid Services (CMS) that will require all healthcare workers in facilities participating in Medicare and Medicaid be fully vaccinated. Fox News reported that rule is set to go into effect on January 4 and will affect more than 17 million workers at 76,000 healthcare facilities nationwide.

The CMS rule, unlike the OSHA one, does not provide a testing alternative to vaccination. It does include medical and religious exemptions.

According to the [Daily Wire](#), the OSHA rule marks the first time federal regulators have listed a respiratory virus as an occupational hazard outside of the health industry, placing COVID in the same category as other workplace risks such as asbestos and hazardous equipment.

Details of the rule have yet to be released, but a Labor Department spokesperson told ABC News that the Federal Register will publish the emergency standard for the rule “in the coming days.”

ABC News reports union and industry groups have not yet seen a draft of the rule, and it is unclear when employers would be expected to comply. It is unknown whether the mandate would apply to freelancers and short-term employees such as Uber drivers, and smaller franchises that are associated with nationwide chains.

What is certain, however, is that, as an emergency rule, the mandate would take effect immediately, the Daily Wire reported.

The mandate is just one of many outlined by Biden on September 9 in a draconian speech that presented a six-point plan to combat COVID and treated the unvaccinated like villains.



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"We've been patient, but our patience is wearing thin. And your refusal has cost all of us," Biden said of unvaccinated Americans on September 9.

Biden's [six-point plan](#) included vaccine mandates for federal workers as well as for private-sector employees. Biden called upon governors to mandate vaccines for all school teachers and staff and urged entertainment venues to require proof of vaccination or a negative COVID test for attendees. His plan also called for states, pharmacies, and medical professionals to prepare to administer booster shots. He also announced an increase in fines for travelers who refused to mask and expanded access to at-home and rapid testing. His plan also included expansion of the COVID-19 Economic Injury Disaster Loan programs.

"Many of us are frustrated with the nearly 80 million Americans who are still not vaccinated, even though the vaccine is safe, effective, and free," he opined in his speech, glossing over the hundreds of thousands of vaccine-related injuries and death reported by the Vaccine Adverse Event Reporting System (VAERS).

Dozens of Republican governors across the country have vowed to fight the mandate.

"My legal team is standing by ready to file our lawsuit the minute @joebiden files his unconstitutional rule," tweeted South Dakota governor Kristi Noem, following Biden's speech. "This gross example of federal intrusion will not stand."

Georgia's governor Brian Kemp tweeted similarly, "I will pursue every legal option available to the state of Georgia to stop this blatantly unlawful overreach by the Biden administration."

"Rest assured, we will fight them to the gates of hell to protect the liberty and livelihood of every South Carolinian," tweeted the South Carolina GOP Governor Henry McMaster.

Texas and Florida have already taken legislative action against the mandate, banning private businesses from instituting vaccine mandates on their employees or "passports" for their customers, the Daily Wire reported.

Reuters writes that in addition to lawsuits from states, a number of companies, trade groups, civil liberty advocates, and religious organizations are expected to rush to court to stop the mandate in its tracks.

"There will be so much litigation it will never see the light of day," said Josh Blackman, a professor at South Texas College of Law Houston.

Daily Wire co-CEO Jeremy Boreing has vowed to fight the mandate for Daily Wire employees.

"The Daily Wire has well over 100 employees," Boreing [tweeted](#). "We will not enforce Joe Biden's unconstitutional and tyrannical vaccine mandate. We will use every tool at our disposal, including legal action, to resist this overreach."

But supporters of the measure continue to claim it is all in the name of public health and safety.

"This is not a vaccine mandate. It's a safe workplace mandate — getting vaccinated or tested," said Jordan Barab, the former deputy assistant secretary of labor for OSHA.

However, to justify an emergency temporary standard (ETS), OSHA must show there is a "grave danger" in workplaces, and that makes the rule vulnerable to legal attacks.

"I think there's an issue as to whether they can show that in every business, in every industry, every



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employer that has more than 100 employees, there is a grave danger from COVID,” said Scott Hecker, an employment attorney with Seyfarth Shaw, which represents businesses.

In a letter to Labor Secretary Marty Walsh, the National Retail Federation noted “workers face the danger of COVID-19 wherever they go ... because they are human beings going about the world, not because they go to work.”

The history of OSHA ETS provides shaky ground for the vaccine mandate. According to Reuters, OSHA has issued just [10 ETSs](#) over its 50 years, of which six were challenged in court, and just one survived entirely intact.

In addition to the OSHA rule deadline, the White House announced today it would push back its federal contractor mandate deadline from December 8 to January 4, Fox News reported. A group of Republican attorneys general have already filed suit against this mandate.



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