

OSHA issues COVID-19 Vax or Test Emergency Temporary Standard

On November 5, 2021, Occupational Safety and Health Administration (OSHA) published an emergency temporary standard (ETS) in the federal register requiring private employers with 100 or more employees to implement an employee vaccination policy with reasonable accommodations for medical or religious needs or a policy allowing unvaccinated employees to wear a mask and undergo regular testing. You might hear the new OSHA ETS referred to as the Vax or Test and Mask policy.

The OSHA ETS or a similar standard will also apply to New York public sector employers, including towns because New York State has an OSHA-approved [state plan](#) for public sector employers. As a state plan administrator, New York State is required to either adopt the OSHA ETS or adopt a similar standard that provides the same or greater level of employee protection. New York's standard should include policy choices and requirements, recordkeeping requirements, implementation deadlines and employer coverage thresholds. New York has 30 days from the date OSHA's ETS was published to adopt the OSHA ETS or a similar standard. The New York State Department of Labor will publish in the [New York State Register](#) its emergency regulation to comply with the OSHA ETS. New York's standard will be enforced by [New York State Public Employee Safety and Health Bureau \(PESH\)](#).

As noted, New York has yet to release its standard, but for an idea of possible policy requirements, recordkeeping requirements, implementation deadlines and employer coverage, you can check out the information provided by OSHA for private sector employers. OSHA's website includes the OSHA ETS, ETS summaries, training videos, fact sheets, FAQs, policy templates and links to helpful resources.

- [OSHA website](#)
- [On-Demand Training Video](#)
- [Fact Sheets](#)
- [Frequently Asked Questions](#)

Due to several lawsuits challenging OSHA's ETS, the compliance dates are currently in flux, but once resolved there will be a short window for covered employers to implement the requirements. We will update you as soon as we learn of New York's requirements.