



IDOL Guidance on Emergency Temporary Standards

President Biden ordered the federal Department of Labor's Occupational Safety and Health Administration (OSHA) to develop a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require any unvaccinated workers produce a negative test on a weekly basis.

Federal OSHA will be adopting an Emergency Temporary Standard (ETS) with a COVID-19 vaccine mandate for employers with 100 or more employees. As of September 16, 2021, the Illinois Department of Labor's Division of Occupational Safety and Health (Illinois OSHA) has not received any detailed information on the content of OSHA's proposed vaccine mandate ETS and the federal process for adopting it.

Illinois OSHA is charged under 820 ILCS 219 with ensuring the protection of Illinois employees and employers under its jurisdiction in the **public** sector from occupational safety and health hazards. In Illinois, federal OSHA has jurisdiction over the **private** sector.

When federal OSHA adopts a vaccine mandate ETS for employers with 100 or more employees, standards adopted by Illinois OSHA are required to be "at least as effective" as those adopted by OSHA in accordance with 29 USC 667(c)(2) of the OSH Act of 1970.

Once federal OSHA files the ETS, Illinois will have 30 days after the date of promulgation of the Federal standard to adopt a State emergency temporary standard. The potential State standard would have to remain in effect for the duration of the Federal emergency temporary standard which may not exceed six (6) months.

At this point in time, there is no action required of employers in Illinois. The Illinois Department of Labor and Illinois OSHA will communicate when action is required of employers with 100 or more employees.