Tuesday, January 25, 2022

On January 25, 2022, the US Occupational Safety and Health Administration (OSHA) announced that it would withdraw its controversial “vax-or-test” Emergency Temporary Standard (ETS), which required large employers to impose vaccination or testing requirements upon their employees. The withdrawal will be effective as soon as the announcement is published in the Federal Register, which is scheduled to occur on January 26, 2022.

In the same announcement, OSHA clarified that the text of the ETS will remain in place to solicit additional comments from the general public so that, according to OSHA, the agency can “prioritize its resources to focus on finalizing a permanent...
COVID-19 Healthcare Standard.” If OSHA follows this path, the final rule will be published no later than May 5, 2022.

OSHA also confirmed that the 22 states that have OSHA-approved state OSHA plans are free to issue or withdraw their own COVID-19 health and safety regulations without regard to federal OSHA’s activities.

This update follows the US Supreme Court’s January 13, 2022, ruling that blocked OSHA from enforcing its ETS while litigation regarding the merits of the ETS proceeded in the US Court of Appeals for the Sixth Circuit. The ETS, which was originally issued on November 5, 2021, was scheduled to expire on May 5, 2022.

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