



# Employer Vaccine Mandate

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# Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule

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## Key Points:

- Applies to all Medicare and Medicaid providers and facilities
- Staff required to be vaccinated w/ exemptions accepted; **no test-out option**
- First Compliance Deadline: 30 days after regulation is published- all staff receiving at least one dose (December 5)
- Second Compliance Deadline: 60 days after regulation published- all staff complete primary vaccination series (January 4)

# FAQ on Healthcare Vaccination Mandate

## **Q. What are the compliance deadlines?**

- ✓ *November 5<sup>th</sup>*: Emergency Regulation becomes effective
- ✓ *December 6<sup>th</sup>*: Facilities must have process or plans in place for vaccinating staff, exemptions, accommodations and tracking; staff must have received primary vaccinations
- ✓ *January 4<sup>th</sup>*: Staff must be fully vaccinated

## **Q. Which employees need to be vaccinated?**

- ✓ All current and new staff working at the facility
- ✓ Staff performing duties offsite
- ✓ Individuals who enter into a CMS facility (i.e. physicians treating patients onsite)

# FAQ on Healthcare Vaccination Mandate

## **Q. How will this rule interact with other regulations and requirements?**

- ✓ Facilities participating in Medicare & Medicaid programs regulated by CMS are governed first by the IFR
- ✓ Non-Medicare/Medicaid certified health care facilities fall under the federal contractor or OSHA ETS for health care facilities
- ✓ If none of the above apply, employers subject to OSHA ETS for large employers
- ✓ IFR pre-empts any state or local law

# Key Distinctions Across All Federal Mandates

## Federal Contractor Mandate

- Applies to full or part-time federal contractors
- Governed by the Safer Federal Workforce Task Force Guidance
- Counties receiving federal funding not considered contractors
- Exemptions & regular testing options

## CMS Interim Final Rule for Healthcare Facilities

- Applies to Medicaid and Medicare certified health care facilities
- Includes county run hospitals and health care clinics
- Exemptions made by no testing options

## OSHA Emergency Temporary Standard

- Applies to employers with 100 or more employees in each of the 26 states that submit occupational safety plans to OSHA
- Counties in each of the 26 states fall under the jurisdiction of this standard
- Exemptions & regular testing options

# OSHA Emergency Temporary Standard for Large Employers

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## **Key Points:**

- Applies to all employers with 100 or more employees “Firm or company wide”
- Counties in the 26 states with OSHA-approved state plans also impacted
- Requires large employers to develop, implement, enforce COVID-19 vaccination or testing
- Does not preempt state and local laws that go beyond guidelines under ETS

# Definitions in the Emergency Temporary Standard

## **COVID-19 Test:**

- Authorized by FDA for emergency use
- Administered according to authorized instructions
- Not self administered/self read

## **Fully Vaccinated:**

- Individual is 2 weeks after completion of primary vaccination
- Completion of second dose for a 2-dose vaccine
- Completion of initial dose vaccination for one dose vaccines

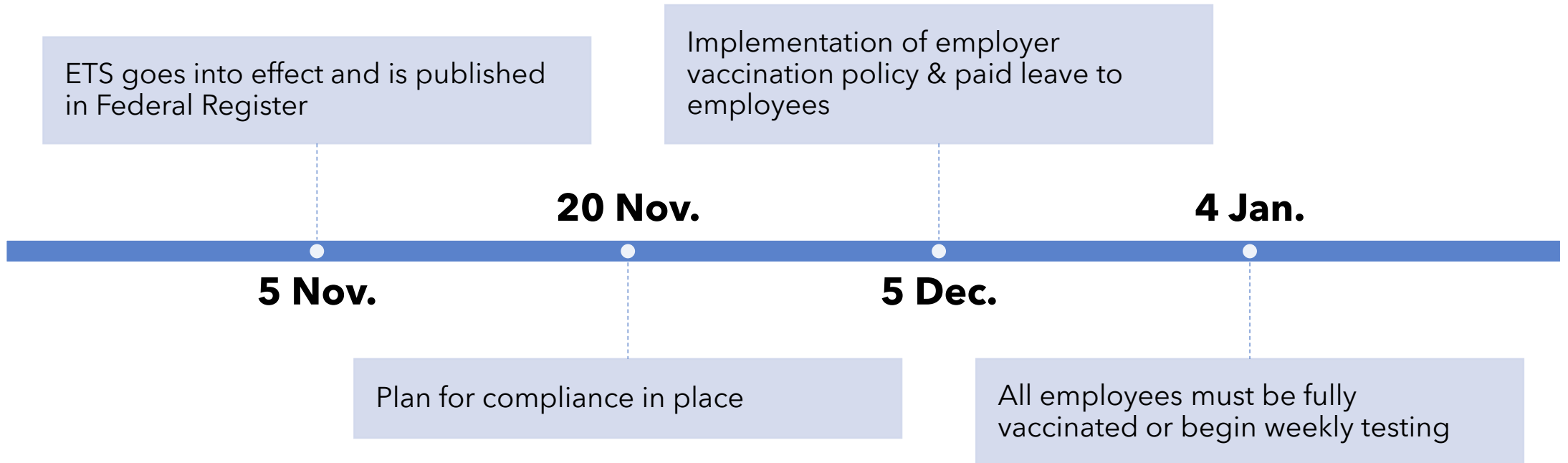


# Overview of Employer Vaccination Policies

- Mandatory vaccination policies require each employee to be fully vaccinated, outside of exemption
- ETS requires employers to provide employee with reasonable paid time off for vaccinations
- Policies must provide option of regular testing and masking
- Employers must provide employees with information about the ETS

*“OSHA implores employers to remove logistical barriers to vaccination and incentivize employees”*

# Key Deadlines Under the ETS



# Penalties & Enforcement

## **Penalties**

- OSHA may fine non-compliant covered employers up to \$13,653 for each violation of the standard.
- Employers with repeat violations fined up to \$136,532 per violation

## **Enforcement**

- An emergency temporary standard can only remain in effect for six months
- After six months ETS will be replaced with permanent standard

# NACo Resources

[www.naco.org/resources/featured/employer-covid-19-vaccine-mandate-faqs](http://www.naco.org/resources/featured/employer-covid-19-vaccine-mandate-faqs)



## OVERVIEW

On September 9, the Biden administration announced a new COVID-19 Action Plan, titled “The Path Out of the Pandemic.” The plan takes a six-pronged approach to combat COVID-19, which includes advancing COVID-19 mitigation and response efforts through vaccination and masking, keeping schools safely open and bolstering our economic recovery.

## FIND NACo's LATEST COVID-19 VACCINE RESOURCES

[COVID-19 Vaccine Resource Hub](#)

[COVID-19 Recovery Clearinghouse](#)

[Explore All NACo Health Resources](#)

# NACo Resources



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