

## OSHA Exercising Discretion in Enforcing the ETS Until January 10

December 19, 2021 | Amanda Marie Baer | Articles

As posted [here](#), the Sixth Circuit Court of Appeals lifted the stay of the Vaccination and Testing Emergency Temporary Standard (the “ETS”) issued by OSHA. The Department of Labor announced on Saturday, December 18 that OSHA is exercising enforcement discretion with respect to the compliance dates of the ETS.

Accordingly, OSHA will not issue citations for noncompliance with any of the requirements of the ETS (apart from the testing requirements) before January 10, and OSHA will not issue citations for noncompliance with the ETS’ testing requirements before February 9, so long as an employer is exercising “reasonable, good faith efforts to come into compliance with the standard.”

The parties challenging the ETS have reportedly filed an application with the United States Supreme Court to reinstate the stay.

Importantly, employers may choose to implement a vaccination policy regardless of the ultimate outcome of the ETS-related litigation. We will continue to keep you updated, but please feel free to reach out with any questions.



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