OSHA Withdraws COVID-19 ETS, But Signals That It Is Moving Forward with Final Rule

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On January 25, 2022, OSHA announced the withdrawal COVID-19 Vaccination and Testing Emergency Temporary Standard (the "ETS").

In the announcement, OSHA stated that although it "is withdrawing the [ETS] as an enforceable emergency temporary standard, [it] is not withdrawing the ETS to the extent that it serves as a proposed rule . . ." In other words, OSHA may use the ETS as a *proposed* rule that will (undoubtedly) be edited and implemented as a *final* rule.

Accordingly, at this time, employers with 100+ employees are not required to implement COVID-19 vaccine and testing policies that comply with the ETS. However, employers (of all sizes) are generally free to implement COVID-19 vaccine and/or testing mandates. Please contact us if you have any questions about such policies or the impact of the OSHA ETS withdrawal on your existing policies and practices.



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