

# OSHA Extends Mandate Comment Period. Small Businesses Should Take Notice.

Media Mentions

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Bracewell's **Bob Nichols** discussed with *The Business Journals* what businesses should be preparing for with a federal court temporarily suspending COVID-19 mandates under an emergency temporary standard (ETS), as well as the Occupational Safety and Health Administration (OSHA) extending the comment period on the mandate-or-testing rule for COVID-19 by 45 days to Jan. 19.

Nichols said the court's schedule suggests it may not act right away, and it's unknown whether the deadlines will be extended by a court or by OSHA. He said this is the first litigation over an OSHA ETS since 1983, so there's no recent precedent to shed light on how the situation may unfold.

"For that reason, covered employers are well advised to plan for the possibility that the ETS could go forward with the current effective dates provided by OSHA in place," Nichols said. "Prudent employers should be ready to implement all elements of the ETS based upon OSHA's original schedule provided for in the ETS itself."

Among other requirements, Nichols said that means employers would need to have collected all the required vaccination information and documentation for its workforce by Dec. 6 and drafted and distributed a policy consistent with the ETS requirements by that date.

Unveiled Nov. 4, the ETS is part of the Biden administration's plan to increase national vaccination rates and limit COVID-19 outbreaks. The first deadline, which calls for large employers to require masking of unvaccinated workers, is Dec. 6. The deadline to either mandate the vaccine or require weekly testing for unvaccinated workers is Jan. 4.

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Both of those deadlines are temporarily suspended due to a federal court temporarily blocking implementation or enforcement of the ETS. The case is awaiting action by the 6th US Circuit Court of Appeals.

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