

OSHA Levels Fines Against Employers Who Fail to Implement Measures to Mitigate the Spread of COVID-19

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On November 4, OSHA issued its Emergency Temporary Standard (“ETS”) that imposes a vaccine mandate on employers with 100 or more employees. Though the [Fifth Circuit Court of Appeals](#) has enjoined OSHA from enforcing the ETS against employers, that hasn’t stopped OSHA from taking enforcement action against those employers that it believes aren’t doing enough to stop the spread of COVID-19.

In October, OSHA fined a trailer company in Wisconsin nearly \$10,000 after a 47-year-old employee died from the virus. After an employee complained the company failed to protect workers from the virus, OSHA investigated and found that 11 of the company’s 38 employees tested positive from April 12 to May 18. OSHA based the fine on an alleged violation of the OSH Act’s general duty clause. Employers should therefore continue to be mindful about taking adequate action to protect employees from the spread of the virus.

OSHA also announced it just reached a settlement with the country’s largest pork processor after an investigation found that nearly 1,300 employees tested positive and four died. Though the company closed a facility for 25 days to contain an outbreak, OSHA still cited the company for a general duty clause violation. Under the settlement agreement, the employer will pay a \$13,000 fine and work with third-party experts to evaluate the company’s COVID-19 response plan and training procedures.

While Biden’s vaccine mandates seem stuck in a legal traffic jam, employers must remain vigilant in their efforts to maintain a healthy and safe workplace.

GableGotwals’ [Employment & Labor team](#) is available to help employers assess their current policies, procedures, and practices in light of these announcements. We will be monitoring for any action by OSHA, and any and all related litigation. Please contact any member of the team for further assistance.



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