

Business groups want to have a say in Biden's vaccine requirement

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Karl Evers-Hillstrom

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By [Karl Evers-Hillstrom](#) - 09/28/21 06:02 AM EDT



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Business groups are growing increasingly frustrated as Labor Department officials move forward with [President Biden's](#) vaccine requirement without seeking their input.

While lobbying groups that represent some of the country's biggest corporations don't oppose the rule, which will require employers with more than 100 workers to mandate COVID-19 vaccinations or weekly testing, those same organizations have presented Biden officials with lengthy lists of questions about the rule that have so far gone unanswered.

"The administration has refused to engage in any substantive dialogue about their plan," said Ed Egee, vice president of government relations and workforce development at the National Retail Federation.

The Occupational Safety and Health Administration (OSHA), which is tasked with implementing the vaccine-or-test requirement, is not taking meetings with business groups or labor unions that are seeking to influence the process or glean more information about the rule, according to business lobbyists.

A representative for OSHA did not respond to a request for comment about whether the agency will engage business and labor groups while it crafts the rule.

OSHA is developing the requirement under an emergency temporary standard (ETS), which allows the agency to bypass the typical public comment period used in the rulemaking process.

Business groups say that without getting input from private employers, OSHA risks releasing a rule that will be ineffective at increasing vaccination rates and difficult to comply with.

The National Retail Federation said it offered to connect OSHA officials with executives at companies that have already successfully implemented their own vaccine requirements, such as Walmart and Disney, but was rebuffed.

“From a good government standpoint, you would think they would want to get as much information as they can, particularly from companies that have already done this,” Egee said.

The Coalition for Workplace Safety, which is backed by corporate lobbying giants such as the U.S. Chamber of Commerce, sent a letter to OSHA on Friday urging it to “reconsider its decision not to accept input from interested stakeholders.”

“OSHA should consider these questions and seek written input on a draft standard from stakeholders before issuing any ETS,” the letter read. “To do otherwise invites avoidable implementation challenges and costs that would undermine the effectiveness of this ETS achieving its goals.”

Businesses have a litany of questions for OSHA, such as how they should verify vaccination status, how they should adjudicate religious and disability exemptions, whether remote workers will be subject to the rule, who will pay for the cost of testing and whether workers will get paid time off to get tested.

In a letter to Labor Department officials last week, the Retail Industry Leaders Association and the National Retail Federation asked for a 90-day window to implement the rule and provide feedback after the vaccine-or-test requirement is officially unveiled.

“As we have navigated federal and state requirements, recommendations, and protocols, we have learned that it takes time to implement successful testing and vaccination programs—particularly in the face of challenges related to availability, access, and verification,” the groups wrote.

The U.S. Chamber of Commerce similarly urged OSHA to answer its questions “to ensure that, should an ETS become enforceable, employer compliance will be as clear, simple, and cost-effective as possible.”

The Biden administration announced the vaccine-or-test mandate earlier this month in a push to get more Americans vaccinated against the fast-spreading virus. Companies that don't comply could face fines of up to \$14,000 per violation.

Many companies are already tracking vaccination status in the workplace, but fewer have experience implementing a COVID-19 testing requirement for unvaccinated workers. Most businesses are waiting to purchase testing supplies without knowing who will pay for them and what kind of tests will be sufficient.

Companies will have to compete with schools, hospitals and each other to acquire rapid testing supplies, which are increasingly expensive and hard to come by. The Centers for Disease Control and Prevention warned of a rapid testing shortage earlier this month.

Some employers might opt to scrap the testing alternative altogether, according to Michelle Strowhiro, a lawyer at McDermott Will & Emery who advises businesses on COVID-19 employment issues.

“Administratively, it's going to be quite burdensome for employers, especially large employers with hundreds or thousands of employees, to track weekly the testing results for employees,” Strowhiro said.

Other large employers are worried that when the rule goes into effect, they could lose workers to rival firms with less than 100 employees that don't require vaccines or testing or to independent contracting for gig companies, which generally do not require contractors to get the shot.

About one-quarter of U.S. adults are not vaccinated against the deadly virus. Nearly two-thirds of unvaccinated employees would rather quit than get the vaccine, according to a Washington Post-ABC News poll released this month.

Businesses don't want to lose any workers amid a nationwide labor shortage in which 10 million jobs remain unfilled. Companies in areas of the country with low vaccination rates are particularly concerned about the threat of employees leaving once the rule goes into effect.

While many business executives have said that they lost minimal numbers of employees after requiring vaccinations, the concern is playing out in New York, which is bracing for a health care worker shortage after thousands of hospital employees failed to get the shot before Monday's state-imposed deadline.

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