

OSHA

Penalties for the COVID-19 Vaccination and Testing ETS

Type of Violation	Penalty
Serious Other-than-Serious Posting Requirements	\$13,653 per violation
Failure to Abate	\$13,653 per day beyond the abatement date
Willful or Repeated	\$13,653 per violation

The Occupational Safety and Health Administration (OSHA) COVID-19 vaccination and testing emergency temporary standard (ETS) prescribes specific measures employers covered by this standard must implement. This specificity will make it easier for OSHA to determine whether an employer has intentionally disregarded its obligations or exhibited a plain indifference to employee safety or health. In such instances, OSHA can classify the citations as “**willful**,” allowing it to propose higher penalties with increased deterrent effects.

In addition, OSHA has adopted its “**egregious violation**” policy to impose sufficiently large penalties to act as deterrents against bad-actor employers that willfully disregard their obligation to protect their employees when certain aggravating circumstances are present. Examples of willful disregard include large number of injuries or illnesses, bad faith or an extensive history of noncompliance.

The egregious violation policy utilizes OSHA’s authority to issue a separate penalty for each instance of noncompliance with an OSHA standard. This approach could enable OSHA to penalize employers for each employee lacking the protections afforded to others or for every workstation lacking adequate protection controls.

The table on the left provides an overview of the penalties employers may be required to pay for ETS citations, subject to OSHA’s discretion.