

# OSHA moves to create permanent workplace safety rules for COVID

Two years into this pandemic, there are no binding national workplace safety rules for COVID-19. The Occupational Safety and Health Administration's vaccine-or-test mandate was blocked by the Supreme Court this month, and a set of temporary rules for health care facilities [expired late last year](#).

In response to a [lawsuit](#) from a number of large health care unions, [OSHA said it is working to create a permanent COVID safety standard](#). But that could take a while.

OSHA said the new safety rules — what it calls a standard — to protect health care workers from COVID-19 could be coming in six to nine months. But even that could be an overly ambitious timetable.

"In recent decades, it's taken years for OSHA to issue any permanent standards around a health exposure," said David Michaels, a professor at the George Washington University School of Public Health.

In 2010, when Michaels was running OSHA, the agency started work on something similar — an airborne infectious disease standard in response to the H1N1 flu pandemic.

"OSHA has to do a series of analytical exercises. They have to show that everything they're requiring is economically feasible and technologically feasible," he said.

That work wasn't finished seven years later, when the Donald Trump administration took over and shelved it.

"I think one thing this has made clear is just how weak the OSHA law is," Deborah Berkowitz, now a fellow at Georgetown University, said. Berkowitz also worked at OSHA during the Barack Obama administration.

"When the law was originally written, Congress thought it would take them six months," she said. But creating a new standard now takes seven to 10 years, in part due to a lengthy public hearing process.

"OSHA must answer almost every comment that comes in," Berkowitz said. "It's a very laborious process."

Because OSHA already did the initial research to create emergency rules for health care facilities, the process could be accelerated, according to James Brudney at Fordham University Law School. But then there will likely come legal challenges, he said.

"Those challenges can take a year, even two years, to wend their way through a final judgment in the court of appeals," he said.

And there may be more of these challenges now that the Supreme Court has [signaled a more limited view of OSHA's role in the pandemic.](#)

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