



## What does Full Approval of the Pfizer COVID-19 Vaccine Mean?

The FDA has now fully approved the Pfizer COVID-19 vaccine for all persons ages 12 and up. The real impact of the FDA approval of the Pfizer booster, will likely be to further weaken people's resistance to the vaccine and to also strengthen employers' and contractors' resolve to insist on fully vaccinated workplaces and projects. Further, the vaccine-hesitant will have one less argument in an attempt to support their position. Their weakened hand will likely meet with growing opposition, bolstered by fully authorized vaccines and a population growing more tiresome of the unvaccinated in the wake of the Delta variant. This will almost certainly lead to a great many more mandates from employers and contractors.

So what does that mean for employers and contractors? Nothing new, actually. Even before full authorization, employers could require employees to get vaccinated (allowing for limited disability and religion exemptions). Further, owners and contractors could already require all contractors and subcontractors to have every employee on a project be fully vaccinated (and to provide proof of their vaccination status).

While some commenters had questioned whether employers can require employees to receive a COVID-19 vaccine that had only received emergency use authorization, those arguments never gained much traction. Section 564 of the Federal Food, Drug, and Cosmetic Act (FDCA) does require individuals who receive an emergency use authorized (EUA) vaccine to be informed of their option to accept or refuse the vaccine, the Justice Department recently concluded that 564(e)(1)(A)(ii)(III) only concerns the provision of information to potential vaccine recipients. The DOJ concluded that the provision did not prohibit public or private entities from imposing requirements for vaccines that are subject to EUAs. The DOJ went on to cite a recent Houston Federal Court case establishing that an employer's mandatory vaccination policy was not "coercive" because an employee "can freely choose to accept or refuse a COVID-19 vaccine...if [the employee] refuses, she will simply need to work somewhere else".

For more information, please contact [Tony Stergio](#).